

# Exhibit F

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF COLUMBIA  
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4         SHABTAI SCOTT SHATSKY, et al.,         )  
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9         v.    ) Civil Action No.  
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14         THE SYRIAN ARAB REPUBLIC, et al.,         )  
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VIDEOTAPED DEPOSITION OF

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JAWAD AMAWI

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JERUSALEM, ISRAEL

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SEPTEMBER 6, 2012

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REPORTED BY: BRENDA MATZOV, CA CSR NO. 9243

1 Videotaped deposition of JAWAD AMAWI, taken  
2 in the above-entitled cause pending in the United  
3 States District Court for the District of Columbia,  
4 pursuant to notice, before BRENDA MATZOV, CA CSR 9243,  
5 at the American Colony Hotel, Pasha Room, Jerusalem,  
6 Israel, on Thursday, the 6th day of September, 2012,  
7 at 9:44 a.m.

8

9

10 APPEARANCES:

11 FOR PLAINTIFFS:

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1 APPEARANCES (Continued) :

2 ALSO PRESENT:

3 MITCHELL COOPERSMITH, Videographer

4 SHIMON BEN-NAIM, Official Arabic Interpreter

5 ALBERT AGHAZARIAN, Official Arabic Interpreter

6 GEORGE HAZOU, Check Arabic Interpreter

7 MORDECHAI HALLER, Advocate

8 AVI LEITNER, Advocate

9 DINA ROVNER, Advocate

10 RACHEL WEISER, Advocate

11 OSAMA SAADI, Advocate

12 JONATHAN ARNON, Advocate

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## 1                   I N D E X

2                   WITNESS

3                   Jawad Amawi

5                   EXAMINATION

PAGE

6                   By Mr. Schoen

9, 158

7                   By Mr. McAleer

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## 11                  E X H I B I T S

12                  LETTER

DESCRIPTION

IDENTIFIED

13                  Exhibit A

CD, Containing CNN Video  
(Retained by Counsel.)

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## 18                  Q U E S T I O N S    I N S T R U C T E D

## 19                  N O T    T O    A N S W E R

20                  PAGE           LINE

21                  139           22

22                  142           14

1 P R O C E E D I N G S  
2

09:43:59 3 THE VIDEOGRAPHER: This is the videotape  
09:44:00 4 deposition of Jawad Amawi, taken by David Schoen,  
09:44:05 5 in the matter of Shatsky versus Syrian Arab Republic,  
09:44:07 6 held at the American Colony Hotel, Jerusalem, Israel,  
09:44:12 7 September 6, 2012.

09:44:18 8 The court reporter is Brenda Matzov. The  
09:44:22 9 videographer is Mitchell Coopersmith.

09:44:24 10 Will counsel now state their appearance.

09:44:27 11 MR. SCHOEN: For the plaintiff, I'm David  
09:44:29 12 Schoen, S-c-h-o-e-n. And with me is -- with me is  
09:44:39 13 Avi Leitner, U.S. counsel -- co-counsel Dina Rovner  
09:44:48 14 and Rachel Weiser. And Mordechai Haller is also with  
09:44:55 15 me, Israeli counsel.

09:45:02 16 MR. McALEER: Good morning.

09:45:02 17 My name is Charles McAleer, with the law  
09:45:06 18 firm of Miller & Chevalier. I'm counsel for the  
09:45:11 19 deponent today, Mr. Jawad Amawi, who's appearing  
09:45:19 20 here today as a designee of the Palestinian Authority,  
09:45:21 21 pursuant to the Second Amended Notice of Deposition  
09:45:28 22 to the Palestinian Authority, dated August 2nd, 2012,  
09:45:30 23 pursuant to Rule 30(b) (6) of the Federal Rules of  
09:45:36 24 Civil Procedure.

09:45:40 25 Specifically, Mr. Amawi is being tendered

09:45:44 1 today as a designee with respect to Categories 6, 7,  
09:45:51 2 11, and 12 of the Second Amended Notice.

09:45:59 3 I am here today with my colleague and partner,  
09:46:03 4 Mr. Mark Rochon. Also with us here today, as counsel  
09:46:12 5 for the Palestinian Authority and the PLO, is Mr. Osama  
09:46:18 6 Saadi. And we're joined today as well by our local  
09:46:24 7 counsel, Mr. Jonathan Arnon.

09:46:27 8 The check translator here today is Mr. George  
09:46:30 9 Hazou.

09:46:33 10 I'd like to just take one moment to note for  
09:46:36 11 the record that, while I appreciate Mr. Coopersmith's  
09:46:42 12 announcement at the beginning of the deposition, the  
09:46:45 13 defendants disagree with the indication that the  
09:46:49 14 deposition is proceeding in Jerusalem, Israel, for  
09:46:54 15 reasons we've previously stated on the record. We're  
09:46:59 16 appearing here today at the American Colony Hotel in  
09:47:02 17 East Jerusalem.

09:47:04 18 And, Counsel, may I just request that you  
09:47:07 19 indicate in what relationship the other two attendees  
09:47:13 20 who are here have to the case other than, of course,  
09:47:16 21 Mr. Haller and Mr. Leitner.

09:47:20 22 MR. SCHOEN: Yes. Ms. Rovner and Ms. Weiser  
09:47:22 23 are co-counsel now in the case. They are just joining  
09:47:27 24 the case now.

09:47:30 25 MR. McALEER: And -- and with what law firm

09:47:30 1 or organization are they associated?

09:47:31 2 MR. SCHOEN: None really. Just working with  
09:47:32 3 us independently.

09:47:33 4 MR. McALEER: So they -- they are not employed  
09:47:35 5 by any law firm or organization?

09:47:38 6 MR. SCHOEN: I don't know the answer to who  
09:47:39 7 they're employed by.

09:47:41 8 MR. McALEER: Well, I -- Mr. Schoen, I  
09:47:42 9 appreciate you may not know. But I would ask of  
09:47:47 10 the other counsel that you have here, Mr. Haller and  
09:47:50 11 Mr. Leitner, whether they're aware of the organization  
09:47:54 12 or entity by which these two additional counsel are  
09:47:59 13 employed.

09:47:59 14 MR. SCHOEN: I'm not sure all of those  
09:48:01 15 details have been worked out yet. Certainly no  
09:48:02 16 other outside organization. They'll be working  
09:48:04 17 with us on the team. They don't work for any other  
09:48:07 18 sort of outside organization or any other law firm  
09:48:08 19 on it.

09:48:09 20 MR. LEITNER: They're working for the law  
09:48:14 21 office of Nitsana Darshan-Leitner.

09:48:17 22 MR. McALEER: For the -- for the record,  
09:48:17 23 in case that wasn't picked up, Mr. Leitner indicated  
09:48:20 24 that the two additional counsel, who Mr. Schoen just  
09:48:27 25 introduced, are employees of the law offices of Nitsana

09:48:32 1 Darshan-Leitner.

09:48:34 2 MR. SCHOEN: And one other just housekeeping  
09:48:36 3 point. I think you probably said this the first time.  
09:48:38 4 The second time you referred to just the Second Amended  
09:48:41 5 Notice of Deposition. But I'm sure you said the first  
09:48:44 6 time "to the PA."

09:48:45 7 I just want to be clear that's the Notice  
09:48:47 8 of Deposition that we're talking about, the August 2nd  
09:48:49 9 Second Notice of Deposition to the PA.

09:48:52 10 MR. McALEER: That is correct.

09:48:54 11 MR. SCHOEN: We also have two other  
09:48:55 12 translators here today who we didn't introduce,  
09:48:59 13 but the same guys from yesterday, Albert and Shimon.

09:49:05 14 MR. McALEER: Why don't we have both of them  
09:49:07 15 introduce themselves for the record with their full  
09:49:07 16 names.

09:49:08 17 OFFICIAL INTERPRETER AGHAZARIAN: Albert  
09:49:08 18 Aghazarian, interpreter.

09:49:10 19 OFFICIAL INTERPRETER BEN-NAIM: Shimon  
09:49:12 20 Ben-Naim, interpreter, translator.

09:49:15 21 MR. McALEER: And then may I just finally  
09:49:17 22 ask Mr. Coopersmith: At what time did we go on to  
09:49:20 23 the record?

09:49:21 24 THE VIDEOGRAPHER: We went on the record  
09:49:22 25 at 9:44.

1 ALBERT AGHAZARIAN

2 -and-

3 SHIMON BEN-NAIM,

4 the Official Arabic Interpreters, were  
5 duly affirmed to translate from English  
6 to Arabic and from Arabic to English.

7

8 JAWAD AMAWI,

9 called as a witness, being first duly  
10 affirmed, was examined and testified  
11 as hereinafter set forth.

12

13 (The following proceedings were conducted  
14 through the Official Arabic Interpreters, unless  
15 otherwise indicated.)

16

17 EXAMINATION

18 BY MR. SCHOEN:

09:50:01 19 Q. I introduced myself privately earlier. But  
09:50:07 20 I'm David Schoen, representing the plaintiffs in this  
09:50:11 21 case.

09:50:14 22 Would you please state your full name?

09:50:27 23 A. I am Jawad Amawi. I am a lawyer, and I  
09:50:31 24 represent the PA as a legal advisor.

09:50:36 25 Q. Mr. Amawi --

09:50:41 1 MR. HALLER: Did he say the ministry?

09:50:43 2 (Comment in Arabic by Official Interpreter

09:50:43 3 Ben-Naim.)

09:50:48 4 THE WITNESS: In the Ministry of Detainees

09:50:52 5 of the PA.

09:50:54 6 Q. BY MR. SCHOEN: If I mispronounce your name,

09:50:57 7 I hope you'll --

09:50:58 8 CHECK INTERPRETER HAZOU: He did say.

09:51:00 9 Q. BY MR. SCHOEN: -- I hope you'll correct me.

09:51:01 10 Amawi?

09:51:03 11 A. Amawi.

09:51:03 12 Q. Amawi.

09:51:03 13 Mr. Amawi, how old are you?

09:51:07 14 A. Forty-four years.

09:51:09 15 Q. And where do you live?

09:51:13 16 A. In Qalansuwa.

09:51:17 17 Q. Where is that?

09:51:23 18 A. It's an Arab town inside Israel, close to

09:51:27 19 Netanya.

09:51:30 20 Q. Where did you go to school, from high school

09:51:34 21 forward, let's say?

09:51:50 22 A. I studied my elementary education in Bal'a

09:51:55 23 school, as well as my preparative period. And I did

09:52:00 24 my school finishing studies in Tulkarem.

09:52:03 25 Q. And you're a lawyer; right?

09:52:08 1 A. Yeah.

09:52:09 2 Q. Where did you go to law school?

09:52:16 3 A. In the Jordanian university.

09:52:18 4 Q. Let me ask you: Do you feel you need an

09:52:21 5 interpreter/translator today?

09:52:28 6 A. Certainly. For sure.

09:52:32 7 Q. How long have you been a lawyer?

09:52:38 8 A. Eighteen years.

09:52:41 9 Q. And would you tell me, please, how you've

09:52:46 10 been employed since you became -- since you finished

09:52:51 11 law school?

09:53:09 12 A. After I finished my studies, I did a training,

09:53:11 13 internship in Jordan. Then I returned here to our

09:53:23 14 country Palestine, and I did training in Ramallah.

09:53:32 15 I worked with several institutions during this period.

09:53:38 16 I worked with the Mandella institution that deals with

09:53:42 17 detainees. I worked with different institutions that

09:53:54 18 are concerned with such issues, including Beit Sharq,

09:53:58 19 that deals with detainees.

09:54:12 20 In 1994, I had my own office with a private

09:54:18 21 colleague in Tulkarem. I proceeded in this office --

09:54:28 22 in this law firm from 1994 until 2000. There were

09:54:45 23 incursions in 2001 and 2000, and our office became

09:54:51 24 like a military post for the Israelis. Practically

09:55:00 25 there was no work at home -- in the office. I was

09:55:03 1 working at home for only specific cases in a limited  
09:55:12 2 way because the whole court system were blocked and  
09:55:16 3 everything was paralyzed in this period.

09:55:22 4 In 2001, I worked with Al-Hoc [sic] --  
09:55:26 5 Qanun -- Al-Qanun, the law institution in the field  
09:55:33 6 of defending Palestinian detainees. My work continued  
09:55:43 7 with Al-Qanun institute for a year.

09:55:48 8 After that, I moved to be engaged in a project  
09:55:57 9 that was financed by the UNICEF, which was concerned  
09:56:06 10 with defending children detainees held in Israeli  
09:56:12 11 prisons. And this program was conducted jointly with  
09:56:19 12 the ministry of -- Palestinian Ministry of Detainees.  
09:56:28 13 I was a director of this program, and at the same time,  
09:56:31 14 I was an attorney, the legal -- the legal director,  
09:56:37 15 in parentheses.

09:56:45 16 This program proceeded for three years by --  
09:56:48 17 financed by the UNICEF. Later than -- than that,  
09:56:58 18 it was financed by various European institutions --  
09:57:01 19 institutions that are interested in childhood, such  
09:57:12 20 as Save the Children. In 2007, this program came  
09:57:24 21 to an end.

09:57:29 22 In February 2008, a decision was taken  
09:57:36 23 to establish a legal management in the Ministry of  
09:57:39 24 Detainees. And since I have been working for an  
09:57:46 25 extended period with them, I was offered to establish

09:57:56 1 and run this program. And this is what happened.

09:58:04 2 And so far I'm still engaged in this type of work.

09:58:09 3 Q. What's -- do you have a job title in the  
09:58:11 4 work you have now -- you're doing now?

09:58:24 5 A. My job title officially, according to the  
09:58:28 6 contract, is -- is lawyer and legal advisor, according  
09:58:33 7 to the contract. But I'm assigned -- I am assigned  
09:58:47 8 actually to be director general of legal affairs.

09:58:50 9 Q. With whom is your contract?

09:58:56 10 A. With the Ministry of Detainees.

09:58:58 11 Q. And the organization is the PLO or the PA?

09:59:19 12 A. It is the Ministry of Detainee Affairs, which  
09:59:22 13 is part of the PNA.

09:59:25 14 Q. Just briefly, you mentioned that you worked  
09:59:29 15 earlier for several institutions. And you gave two  
09:59:37 16 examples, Mandella and another, Beit [sic].

09:59:45 17 Any other specific institutions that come  
09:59:47 18 to mind that you worked for?

09:59:51 19 A. No, I don't. That's it.

09:59:53 20 Q. And under the category of your work on  
09:59:56 21 behalf of child detainees, you -- you mentioned that  
10:00:04 22 it was funded by certain European institutions, and  
10:00:11 23 you mentioned Save the Children as an example.

10:00:17 24 Any other organizations that funded that  
10:00:19 25 work that you remember?

10:00:38 1 A. Save the Children is spread across many  
10:00:41 2 countries and -- like -- such as the Netherlands.  
10:00:44 3 And I don't remember exactly which chapter of Save  
10:00:49 4 the Children was supporting.

10:00:51 5 Q. The specific office that you work under now  
10:00:55 6 is called Ministry of Detainees?

10:01:12 7 A. The Ministry of Detainees and Ex-detainees.

10:01:18 8 CHECK INTERPRETER HAZOU: I would say  
10:01:18 9 "Ministry of Prisoners Affairs."

10:01:24 10 (Brief exchange in Arabic between Check  
10:01:24 11 Interpreter Hazou and the witness.)

10:01:25 12 CHECK INTERPRETER HAZOU: "Ministry of  
10:01:26 13 Prisoners Affairs and Released" --

10:01:30 14 OFFICIAL INTERPRETER AGHAZARIAN:

10:01:29 15 "Ex-detainees."

10:01:31 16 CHECK INTERPRETER HAZOU: Or "ex-detainees."

10:01:31 17 Yes.

10:01:31 18 OFFICIAL INTERPRETER AGHAZARIAN: That's  
10:01:31 19 formally the name.

10:01:33 20 MR. SCHOEN: Okay. For purposes of today,  
10:01:34 21 I'm going to call it the Ministry of Prison [sic]  
10:01:37 22 Affairs so that we're talking about the same thing,  
10:01:40 23 if that's okay.

10:01:45 24 MR. McALEER: Let me just make sure we're  
10:01:47 25 clear. Did you just say "Ministry of Prison Affairs"

10:01:51 1 or "Prisoner Affairs"?

10:01:53 2 MR. SCHOEN: I said "prison," and I meant --  
10:01:54 3 should have said "prisoner." But --

10:01:56 4 CHECK INTERPRETER HAZOU: "Prisoners affairs."

10:01:59 5 MR. SCHOEN: Yeah.

10:02:15 6 Q. BY MR. SCHOEN: But the main point I wanted  
10:02:17 7 to make is we're talking about the same office.

10:02:26 8 Would it be fair to say that you've developed  
10:02:28 9 a specialty in your legal practice of working on behalf  
10:02:39 10 of prisoners or detainees?

10:02:47 11 A. Correct.

10:02:49 12 Q. And specifically with respect to the --  
10:02:55 13 I'm going to call it the PNA's Ministry of Prison --  
10:03:01 14 Prisoner Affairs for these purposes.

10:03:15 15 You're thoroughly familiar with the workings  
10:03:18 16 of that ministry?

10:03:21 17 A. Yes. Correct.

10:03:25 18 Q. Mr. Amawi, have you ever been a prisoner  
10:03:29 19 or detainee yourself?

10:03:35 20 A. Yes.

10:03:37 21 Q. When was that?

10:03:44 22 A. I was in the first preparatory class.

10:03:47 23 Q. I need just a time frame. I'm not familiar  
10:03:50 24 enough with --

10:03:56 25 A. I don't remember years. I just remember I

10:03:57 1 was in the first preparatory school.

10:04:02 2 CHECK INTERPRETER HAZOU: Which is grade

10:04:03 3 seven.

10:04:03 4 OFFICIAL INTERPRETER BEN-NAIM: Junior high.

10:04:04 5 OFFICIAL INTERPRETER AGHAZARIAN: Grade seven.

10:04:06 6 MR. SCHOEN: Oh, I'm sorry. I --

10:04:08 7 OFFICIAL INTERPRETER BEN-NAIM: It's American

10:04:08 8 junior high.

10:04:09 9 Q. BY MR. SCHOEN: Yeah, yeah. I didn't realize

10:04:10 10 you were referring to the time in your life. I see.

10:04:13 11 So I'm going to call it grade seven.

10:04:16 12 In grade seven, you were arrested?

10:04:21 13 A. "Nam."

10:04:23 14 Q. By whom?

10:04:26 15 A. The Israelis.

10:04:26 16 Q. Police or another agency?

10:04:31 17 A. The police and the Army.

10:04:35 18 (Court reporter clarification.)

10:04:35 19 OFFICIAL INTERPRETER AGHAZARIAN: "The Army."

10:04:35 20 Q. BY MR. SCHOEN: Where were you living at that

10:04:39 21 time?

10:04:42 22 A. In Bal'a.

10:04:45 23 Q. And what was the reason given for your arrest?

10:04:57 24 A. That we were involved in a demonstration

10:05:01 25 coming out from school and that we raised the

10:05:06 1 Palestinian flag.

10:05:07 2 Q. Who is "we"? You and some school friends?

10:05:14 3 A. A number of pupils from the school were

10:05:21 4 detained.

10:05:22 5 Q. And you were arrested actually?

10:05:23 6 A. Correct.

10:05:24 7 Q. And where were you taken?

10:05:33 8 A. It was the Fara'a detention center.

10:05:37 9 Q. Is that a pretrial detention center?

10:05:57 10 A. It -- it combined both people who were in

10:06:00 11 a pretrial status and people who were condemned. But

10:06:05 12 most of them were -- were pretrial.

10:06:09 13 Q. Do you remember any of the police officers

10:06:11 14 who were involved in the arrest?

10:06:26 15 A. The police forces were not using correct

10:06:30 16 names. But I remember -- I remember the person that

10:06:37 17 has interrogated me. One called himself Abu Hadijah.

10:06:46 18 Of course, this is not an actual name. This is how

10:06:56 19 the situation was.

10:06:58 20 Q. The name sounds like an Arabic name?

10:07:10 21 A. All the interrogators within the Shabak,

10:07:13 22 they utilize Arabic names.

10:07:15 23 Q. But it was not an Arab -- an Israeli Arab

10:07:18 24 or an Arab person? It was a --

10:07:28 25 A. No.

10:07:29 1 Q. How soon after you were arrested were you  
10:07:31 2 interrogated?

10:07:50 3 A. From the moment that I was detained  
10:07:53 4 at 2:00 a.m., I was beaten up. They started the  
10:07:57 5 interrogation immediately upon arrest, something  
10:08:00 6 I don't forget.

10:08:02 7 Q. Do you know whether -- did you speak with  
10:08:04 8 the police?

10:08:08 9 A. What do you mean I spoke with the police?

10:08:17 10 Q. Oh, what do I mean when I ask did you speak  
10:08:20 11 with the police?

10:08:22 12 The police asked you questions?

10:08:24 13 A. (Witness nods head in the affirmative.)

10:08:28 14 Q. Did you answer their questions?

10:08:32 15 A. Yes.

10:08:33 16 Q. Did you also make a statement?

10:08:40 17 A. Yes.

10:08:41 18 Q. Do you know whether there was a writing made  
10:08:43 19 of any statements you made?

10:08:50 20 A. Yes.

10:08:50 21 Q. Did you ever review that statement?

10:08:57 22 A. What do you mean I saw it?

10:09:01 23 Q. Did you ever have a chance to read that  
10:09:03 24 statement, the writing that was made of your statement?

10:09:13 25 A. No. There was an interrogator interrogating

10:09:16 1 me. And at the end, there was a paper in Hebrew. And  
10:09:19 2 he said: You have to sign this. I don't know what was  
10:09:24 3 in it written, and I don't have any idea.

10:09:27 4 Q. Did you sign it?

10:09:29 5 A. Of course.

10:09:30 6 Q. Do you read Hebrew?

10:09:37 7 A. Now I read Hebrew. But at -- during that  
10:09:40 8 period, I couldn't read Hebrew.

10:09:42 9 Q. Yeah. I should have asked a better question.

10:09:48 10 How long were you detained?

10:09:55 11 A. Twenty-one days.

10:09:57 12 Q. Was there a formal charge brought against you?

10:10:06 13 A. Participating in a demonstration and waving  
10:10:14 14 the flag. In the legal context, it was described as  
10:10:18 15 the "disruption of public order."

10:10:21 16 Q. Did you know at the time that what you had  
10:10:25 17 done was illegal?

10:10:29 18 MR. McALEER: Objection.

10:10:29 19 Are you asking illegal under whose law?

10:10:36 20 Objection. The question is vague. And  
10:10:44 21 counsel has not clarified it.

10:10:46 22 THE WITNESS: I do not think that the act  
10:11:02 23 that I was involved in was illegal. Or, rather, I  
10:11:09 24 am convinced that this is a legal action.

10:11:13 25 MR. SCHOEN: "A legal action"?

10:11:15 1 OFFICIAL INTERPRETER AGHAZARIAN: (Interpreter  
10:11:15 2 nods head in the affirmative.)  
10:11:16 3 Q. BY MR. SCHOEN: Do you understand it to have  
10:11:17 4 been against Israeli law at the time?  
10:11:28 5 MR. McALEER: Objection.  
10:11:28 6 Counsel, are you asking him if he knew at --  
10:11:31 7 at the time when he was in grade seven?  
10:11:34 8 MR. SCHOEN: Yeah.  
10:11:38 9 MR. McALEER: And, Counsel, you know, I've  
10:11:39 10 let you go on for a little while on this. And this  
10:11:44 11 seems well beyond any appropriate background. It's  
10:11:50 12 also beyond the scope of the topics for which this  
10:11:56 13 designee has been tendered here today.  
10:11:59 14 So I'd object both as to the scope and the  
10:12:05 15 discoverability and examination along these lines.  
10:12:09 16 Do you have any proffer of -- of why you're  
10:12:12 17 going into this area in this detail with this witness  
10:12:17 18 now beyond the fact that it's not within the scope of  
10:12:20 19 the categories for which he's designated?  
10:12:27 20 Counsel?  
10:12:29 21 MR. SCHOEN: Yeah. I was letting him finish  
10:12:32 22 the translation.  
10:12:33 23 MR. McALEER: Sure.  
10:12:36 24 MR. SCHOEN: Two answers. The witness'  
10:12:39 25 credibility is always at issue.

10:12:43 1                 Secondly, I don't think you've let me go  
10:12:46 2 beyond any level. I think this is entirely appropriate  
10:12:49 3 questioning.

10:12:55 4                 And, thirdly, we may disagree over this, but  
10:13:00 5 I'm not limited to the scope of the subjects for which  
10:13:05 6 you've designated him with respect to the questions that  
10:13:08 7 I can ask today.

10:13:14 8                 MR. McALEER: Well, let me just say I disagree  
10:13:17 9 with your proffer as a proper basis. But we need not  
10:13:20 10 debate it here.

10:13:20 11                 Secondly, I'm entitled to note on the record  
10:13:29 12 when you have exceeded the scope of the topics for  
10:13:35 13 which the witness is designated. And whether or not  
10:13:40 14 any examination you attempt to conduct beyond the  
10:13:44 15 scope of those topics for which he's been designated  
10:13:47 16 is appropriate is something that we will assess as  
10:13:51 17 the deposition goes on.

10:13:52 18                 MR. SCHOEN: Yeah. Let me say, I -- I agree  
10:13:54 19 that you're entitled to note for the record just about  
10:13:58 20 anything you want to note for the record. We don't  
10:14:00 21 disagree over that.

10:14:03 22                 And my intention is to go forward. And if  
10:14:09 23 you believe that a question is improper or that I've  
10:14:12 24 exceeded the scope or some other reason, you'll enter  
10:14:16 25 your objection as you think appropriate. And you'll

10:14:20 1 make a decision as to whether to instruct the witness  
10:14:23 2 not to answer or proceed otherwise.

10:14:29 3 MR. McALEER: And as to this line of inquiry,  
10:14:32 4 I have noted my objection. And notwithstanding the  
10:14:37 5 proffer from counsel, which I appreciate, I maintain  
10:14:42 6 my objection.

10:14:43 7 MR. SCHOEN: Let me --

10:14:46 8 MR. McALEER: And -- and I maintain my  
10:14:48 9 objection. I'm not instructing the witness not to  
10:14:51 10 answer, at least this immediate line. But I would  
10:14:59 11 ask, Counsel, that you proceed to the topics for which  
10:15:03 12 the witness has been designated.

10:15:07 13 MR. SCHOEN: I wish you hadn't added the last  
10:15:14 14 part, frankly, because I was going to say that I'm about  
10:15:17 15 to move off of this area. But I don't want to be in  
10:15:20 16 a position of taking direction from you as to how I'm  
10:15:23 17 going to proceed today.

10:15:24 18 So I'm -- I believe I'm entitled to ask him  
10:15:27 19 questions about his background. I intend to move along  
10:15:31 20 because I would like to make this process move along  
10:15:34 21 as quickly as I can for the convenience of everyone  
10:15:37 22 and because I think it's the right thing to do.

10:15:51 23 Q. BY MR. SCHOEN: Is there any other time  
10:15:52 24 during which you have been detained?

10:16:07 25 A. No.

10:16:08 1 Q. You've testified before in a deposition;  
10:16:10 2 correct?  
10:16:15 3 A. Yes.  
10:16:16 4 Q. How many times?  
10:16:18 5 A. Twice.  
10:16:19 6 Q. And -- in the Saperstein case, if you recall?  
10:16:26 7 A. I don't remember exactly.  
10:16:27 8 Q. The Klieman case, K -- K-l-i-e-m-a-n?  
10:16:35 9 A. Yes.  
10:16:35 10 Q. And on those occasions, you also appeared  
10:16:38 11 as a designee or witness on behalf of either the PLO  
10:16:44 12 or the PNA?  
10:16:59 13 A. I used to represent the PA.  
10:17:02 14 Q. In those circumstances when you testified  
10:17:04 15 at those depositions?  
10:17:12 16 A. Correct.  
10:17:14 17 Q. Today does your salary come from the PNA,  
10:17:17 18 if you get a salary?  
10:17:25 19 A. Correct.  
10:17:30 20 Q. May I ask what your salary is?  
10:17:40 21 A. I apologize to answer. This is a private  
10:17:42 22 matter. The conditions of the contract are that they  
10:17:51 23 should be secret and no one is allowed to release it.  
10:17:56 24 Q. The contract -- the employment contract  
10:17:58 25 you have with the PNA provides that the terms of your

10:18:01 1 compensation and other terms of the contract are to  
10:18:12 2 be kept secret?

10:18:27 3 A. Yes. That this is a contract between two  
10:18:29 4 parties and it should not -- it should not be revealed.

10:18:37 5 Q. Do you recall whether that was at your  
10:18:39 6 request, or was it the request of the PNA?

10:19:08 7 A. I have arranged the contracts. And -- and  
10:19:11 8 I have put within the establishment of this department  
10:19:15 9 that the -- the -- the -- the items will be discrete  
10:19:22 10 as a lawyer. And in order that you don't go with your  
10:19:34 11 thinking very far upon this point -- so that -- so that  
10:19:39 12 you don't waste your time with questions that will not  
10:19:43 13 lead anywhere, the contract was placed because we have  
10:19:51 14 a number of lawyers that are functioning. And, very  
10:19:58 15 clearly, the tasks of every lawyer and the -- the  
10:20:01 16 circumstances differ from one and the -- and the other.

10:20:10 17 So that -- so that -- so that X will not  
10:20:14 18 tell to Y, "Why did you give him a 50 and you gave  
10:20:18 19 the other 100?" -- so in order to have my mind calm,  
10:20:25 20 so I don't have any headache, I have discrete contracts  
10:20:29 21 so that I don't get trouble. But since it is contained  
10:20:37 22 within the contract, it becomes binding to all parties  
10:20:42 23 concerned.

10:20:43 24 Q. Uh-huh. Just give me one minute, please.  
25 //

10:20:46 1 (Brief discussion held off the record between  
 10:20:46 2 Mr. Schoen and Mr. Haller.)  
 10:20:55 3 Q. BY MR. SCHOEN: Are you a member of any  
 10:20:58 4 political organization or military organization?  
 10:21:07 5 A. No.  
 10:21:08 6 Q. Are you a member of any -- what I'm going  
 10:21:12 7 to call "faction"? But if you have a question about my  
 10:21:15 8 term, tell me.  
 10:21:33 9 A. The PLO has a number of factions involved.  
 10:21:36 10 I don't have any problem with the term of "faction."  
 10:21:39 11 But I'm not a member of any.  
 10:21:42 12 Q. Are you a member of the PLO?  
 10:21:54 13 A. I already answered: To be a member of the  
 10:21:57 14 PLO, you have to be a member in one of -- of its  
 10:22:01 15 factions. And I'm not a member.  
 10:22:09 16 Q. Have you ever been engaged in any activities  
 10:22:12 17 you would consider to be political activities?  
 10:22:25 18 MR. McALEER: Objection. The question's  
 10:22:27 19 vague.  
 10:22:38 20 THE WITNESS: This is a term which is wide  
 10:22:39 21 open and -- the term of "political action."  
 10:22:52 22 For the Israelis, engagement in human rights  
 10:22:55 23 is considered political activity. And I have spent  
 10:23:02 24 a lot of time of my life working on issues of human  
 10:23:05 25 rights. If this is considered political action, for

10:23:12 1 sure I have been engaged in political action. And at  
10:23:21 2 the university, I was involved in student activities.  
10:23:24 3 Also, this is considered political activity. Political  
10:23:38 4 action, in the way which is understood in the -- in  
10:23:41 5 the world, I haven't been engaged in.

10:23:44 6 Q. BY MR. SCHOEN: Did you belong to any student  
10:23:46 7 organizations, political organizations or ad -- advocacy  
10:23:50 8 organizations?

10:23:59 9 A. No. Just the students.

10:24:01 10 Q. Where are you a citizen of? What country?

10:24:09 11 A. This is a complex question. I carry an  
10:24:16 12 Israeli ID. I don't have an Israeli nationality.  
10:24:27 13 I carry a temporary Jordanian passport. For the  
10:24:37 14 Israelis, I have a -- a pass document.

10:24:41 15 MR. HALLER: No.

10:24:41 16 (Comment in Arabic by Check Interpreter  
10:24:41 17 Hazou.)

10:24:41 18 OFFICIAL INTERPRETER AGHAZARIAN: "A travel  
10:24:45 19 document."

10:24:58 20 THE WITNESS: And in the travel document,  
10:24:59 21 in the item mentioning nationality is "Undetermined."

10:25:04 22 (Comment in Arabic by Check Interpreter  
10:25:04 23 Hazou.)

10:25:07 24 THE WITNESS: In the 21st century -- imagine,  
10:25:15 25 in the 21st century, somebody who does not know his

10:25:21 1 status.

10:25:23 2 Q. BY MR. SCHOEN: Do you pay taxes?

10:25:26 3 A. Yes.

10:25:26 4 Q. To whom?

10:25:30 5 A. Wherever I work, according to the law.

10:25:34 6 Q. Where are you working now?

10:25:42 7 A. For one hour, you've been asking me where

10:25:47 8 I work. Now you ask me where do I work?

10:25:48 9 Q. I asked you where you pay taxes, and you

10:25:49 10 answered where you work. So I would like to know

10:25:53 11 where you consider that you work.

10:26:13 12 A. Since we started, you've been asking me with

10:26:16 13 whom I work, where I work, and this is the nature of

10:26:19 14 my work. That's it.

10:26:21 15 Q. Who do you pay taxes to?

10:26:23 16 MR. McALEER: Counsel, you're referring to

10:26:27 17 income tax? The sales tax? VAT tax? What?

10:26:31 18 MR. SCHOEN: The answer was -- to my question,

10:26:40 19 "Where do you pay taxes?" the answer, as I understood

10:26:43 20 it, was, "I pay taxes where I work."

10:26:45 21 I think the witness had an understanding of

10:26:48 22 what kind of taxes I meant by that answer. I'm simply

10:26:52 23 asking, for tax purposes, where he understands that he

10:26:56 24 works.

10:26:56 25 THE WITNESS: I work --

10:26:58 1 MR. McALEER: Objection. Vague.

10:26:59 2 THE WITNESS: -- for the PNA, and I pay my

10:27:02 3 taxes to the PNA. And this is what is stipulated by

10:27:06 4 the law.

10:27:07 5 Q. BY MR. SCHOEN: Thank you.

10:27:16 6 Do you receive any sort of monetary benefits

10:27:20 7 from the Israeli government?

10:27:21 8 (Comment in Arabic by Check Interpreter

10:27:21 9 Hazou.)

10:27:36 10 CHECK INTERPRETER HAZOU: "Benefits."

10:27:39 11 THE WITNESS: What do you mean? What kind

10:27:41 12 of benefits?

10:27:42 13 Q. BY MR. SCHOEN: Any kind of money payment.

10:27:44 14 Any kind of insurance, health services.

10:28:02 15 A. I don't have any financial benefits. But

10:28:05 16 when it comes to health insurance, I do receive that

10:28:08 17 like all citizens [sic] within Israel -- residents.

10:28:18 18 MR. McALEER: So the record is clear, the

10:28:20 19 witness used the term "residents" and only "residents."

10:28:27 20 Correct?

10:28:34 21 THE WITNESS: That's the legal definition

10:28:36 22 within Israel.

10:28:40 23 Q. BY MR. SCHOEN: Are you a permanent resident?

10:28:48 24 A. Yes. Correct.

10:28:59 25 Q. Sir, do you know a person by the name of

10:29:01 1 Shaher Ali Al-Rai?

10:29:05 2 And forgive me if I mispronounce it.

10:29:09 3 (Pending question partially translated.)

10:29:09 4 MR. SCHOEN: "Ali Al-Rai."

10:29:13 5 (Remainder of pending question translated.)

10:29:18 6 MR. HALLER: "Shaher Ali Al-Rai."

10:29:23 7 OFFICIAL INTERPRETER BEN-NAIM: It doesn't

10:29:25 8 sound like anything in Arabic. I'm sorry.

10:29:29 9 MR. SCHOEN: Well, let me say this. This is

10:29:31 10 the way the name is written for the designation that

10:29:33 11 you're appearing for.

10:29:39 12 MR. ROCHON: I'm trying to get people other

10:29:42 13 than you to stop talking.

10:29:43 14 Q. BY MR. SCHOEN: I may be butchering the

10:29:46 15 pronunciation. But that's -- that's the way it's

10:29:49 16 written in the notice for which you're appearing today.

10:29:57 17 A. Yes, I know him.

10:29:58 18 Q. May I hear you pronounce the person's name?

10:30:06 19 A. Shaher Al-Rai. Al-Rai.

10:30:06 20 Q. Al-Rai.

10:30:07 21 OFFICIAL INTERPRETER AGHAZARIAN: "Shaher

10:30:07 22 Al-Rai." "The shepherd."

10:30:11 23 Q. BY MR. SCHOEN: Sorry.

10:30:13 24 Do you know this person, Al -- Mr. Al-Rai?

10:30:16 25 A. Yes. Correct.

10:30:17 1 Q. How do you know him?

10:30:29 2 A. I was assigned to defend him in 1994, 1995.

10:30:34 3 He was held in detention in Jericho then.

10:30:38 4 Q. You were his lawyer?

10:30:44 5 A. Me and my colleague, the other lawyer, Abdel

10:30:48 6 Karim Hannun.

10:30:51 7 Q. Do you remember Mr. -- Mr. Al-Rai -- Al-Rai

10:30:51 8 personally as you sit here today?

10:30:57 9 A. What do you mean by that?

10:31:05 10 Q. (Not translated.) Well, this was 1994 you

10:31:08 11 represented him?

10:31:10 12 A. (In English.) '94, '95, I think.

10:31:13 13 (Pending question translated.)

10:31:16 14 THE WITNESS: Yes. Correct.

10:31:18 15 Q. BY MR. SCHOEN: Do you have any idea of a

10:31:20 16 reasonable estimate as to how many detainees you've

10:31:24 17 represented since 1994 'til today?

10:31:44 18 A. A lot. I cannot figure out.

10:31:48 19 Q. A thousand?

10:31:51 20 A. Thousands.

10:31:52 21 Q. Thousands.

10:31:59 22 Do you remember what Mr. Al-Rai looks like?

10:32:06 23 A. Now? No.

10:32:08 24 Q. Did you ever meet him in person, if you

10:32:10 25 recall?

10:32:17 1 A. I met him once when he was in detention.

10:32:22 2 Q. I'd like to show you a video clip and see

10:32:27 3 whether you're able to recognize whether a person

10:32:36 4 appearing in this video is Shaher Al-Rai.

10:32:48 5 MR. McALEER: Counsel, can I ask you: Have

10:32:49 6 you previously disclosed or produced it? And if so,

10:32:53 7 do you recall when, or does Mr. Haller recall when?

10:32:58 8 MR. HALLER: A few days ago. It's the CNN

10:33:03 9 clip that we've mentioned.

10:33:07 10 MR. McALEER: So --

10:33:10 11 OFFICIAL INTERPRETER BEN-NAIM: CNN?

10:33:12 12 MR. SCHOEN: CNN.

10:33:12 13 OFFICIAL INTERPRETER BEN-NAIM: I'm just

10:33:12 14 translating for him.

10:33:12 15 MR. SCHOEN: He said "CNN."

10:33:12 16 OFFICIAL INTERPRETER BEN-NAIM: Yeah. He said

10:33:12 17 "CNN."

10:33:13 18 MR. McALEER: So what you're about to show the

10:33:16 19 witness is something that you received from CNN pursuant

10:33:21 20 to a subpoena in this case?

10:33:23 21 MR. SCHOEN: Yes.

10:33:24 22 MR. McALEER: Are there any other documents

10:33:26 23 produced by CNN or any communications of a written

10:33:32 24 nature between plaintiffs and CNN regarding that

10:33:35 25 subpoena?

10:33:37 1 MR. SCHOEN: My understanding is -- and I  
10:33:39 2 think Mr. Haller will correct me if I'm wrong -- is  
10:33:43 3 that you were provided a copy of the subpoena and a  
10:33:46 4 copy of the disk or some form of the video. And that's  
10:33:49 5 all that I've seen or am aware of in connection with  
10:33:53 6 this thing. That is the subpoena and the -- I actually  
10:33:57 7 got a disk from CNN with this video on it and no other  
10:34:01 8 paperwork, document, or any other thing.

10:34:07 9 MR. McALEER: So, Counsel, is it your  
10:34:09 10 representation that there were never any written  
10:34:12 11 communications between plaintiffs and their counsel  
10:34:15 12 on one part and CNN or its counsel in this matter,  
10:34:19 13 including e-mails?

10:34:23 14 MR. HALLER: Tolchin's addressed to that  
10:34:25 15 question. And I think he --

10:34:29 16 (Simultaneous colloquy.)

10:34:29 17 THE COURT REPORTER: I can't hear.

10:34:29 18 MR. HALLER: So there was no other production  
10:34:32 19 from CNN.

10:34:33 20 MR. McALEER: But Mr. -- we need not take  
10:34:35 21 up more of the record on this. But Mr. Tolchin didn't  
10:34:39 22 substantively answer my previous inquiry on this and --  
10:34:45 23 or on other subpoena matters. So I -- I have a standing  
10:34:52 24 objection on this.

10:34:55 25 And let me just ask counsel: Will a copy of

10:35:00 1 the video that you're going to be showing the witness  
10:35:06 2 be marked -- put on a CD and marked as an exhibit in  
10:35:10 3 the case?

10:35:12 4 MR. SCHOEN: Yes, I'd like it to be.

10:35:18 5 Just in response, if I heard exactly what  
10:35:21 6 you said, I certainly wouldn't -- absent some court  
10:35:28 7 order, I wouldn't intend to provide you with any  
10:35:32 8 communications between plaintiff and their counsel,  
10:35:33 9 which is one of the categories you had said -- you  
10:35:36 10 had asked about at least, if there were any such  
10:35:39 11 communication. And, frankly, I don't have any  
10:35:42 12 reason to believe that there were -- there was  
10:35:44 13 such communication. But anyway.

10:35:47 14 MR. McALEER: Mr. Schoen, again, I don't  
10:35:48 15 want to belabor this point. But I'm a little confused  
10:35:51 16 by what you just said.

10:35:53 17 My inquiry was as to communications between  
10:35:56 18 the plaintiffs or their counsel on the one part and  
10:36:01 19 CNN and CNN's counsel on the other part. Those are  
10:36:07 20 the communications as to which I'm inquiring.

10:36:10 21 And do you have a basis for representing  
10:36:12 22 whether there were ever such communications between  
10:36:18 23 those two groups of a written nature, including e-mails?

10:36:24 24 MR. SCHOEN: Let me ask: Do you care if he  
10:36:26 25 translates this part? Do you want him to translate

10:36:31 1 all of this?

10:36:32 2 MR. McALEER: I -- I think the witness is  
10:36:33 3 entitled --

10:36:34 4 MR. SCHOEN: Certainly.

10:36:34 5 MR. McALEER: -- to be hearing what is being  
10:36:36 6 said.

10:36:36 7 MR. SCHOEN: I agree.

10:36:43 8 MR. McALEER: Now, the videographer has  
10:36:45 9 indicated that there's five minutes remaining on the  
10:36:48 10 tape. And he's put that sign in front of you.

10:36:52 11 Would you like to go on the tape -- on break  
10:36:54 12 now so that he can change the tape, and during the  
10:36:57 13 break, the witness can look at the video? And then  
10:37:00 14 we'll come back on.

10:37:02 15 MR. SCHOEN: Let me tell you my plan for  
10:37:04 16 today. And to the extent, you know, best laid plans  
10:37:07 17 and that sort of thing.

10:37:09 18 My plan for today would be: We take a break  
10:37:10 19 now, then. And I intend to show this video, ask him  
10:37:15 20 a couple of brief questions about the video, ask him  
10:37:19 21 a few questions on this subject, ask him some questions  
10:37:25 22 on other designated subjects -- subjects we'll call it,  
10:37:31 23 but designated subjects. I may ask him some other  
10:37:35 24 questions. We'll decide about that afterwards.

10:37:38 25 And I think I would conclude, after the break,

10:37:41 1 I'm going to say outside two hours. But I think one  
10:37:47 2 hour just to give some sense of what my plan is today.  
10:37:50 3 I don't know if you intend to ask questions or not.  
10:37:54 4 But to give a sense of where we are today. So I think  
10:37:58 5 we should take a break now and then come back.

10:38:02 6 MR. ROCHON: Okay. Did you want him to look  
10:38:02 7 at the video while we're on the break to save time?

10:38:06 8 MR. SCHOEN: Oh, that's what you're asking?

10:38:08 9 MR. ROCHON: That's -- yes, that's -- it's  
10:38:10 10 up to you. We can decide -- let's go on the break now.

10:38:13 11 MR. SCHOEN: Yeah. We'll show him the video.  
10:38:13 12 It's not -- it's very short. And I might ask him --

10:38:16 13 MR. ROCHON: Can we go off the record?

10:38:16 14 MR. SCHOEN: Yes.

10:38:17 15 THE VIDEOGRAPHER: Going off the record  
10:38:19 16 at 10:37.

10:38:21 17 (Recess from 10:37 a.m. to 10:56 a.m.)

10:57:29 18 THE VIDEOGRAPHER: Going on the record  
10:57:29 19 at 10:56.

10:57:29 20 MR. SCHOEN: Back on the record.

10:57:36 21 Q. BY MR. SCHOEN: Before I show the video,  
10:57:38 22 I just want to finish up what I'm going to call  
10:57:42 23 housekeeping, and then I won't have to come back.

10:57:54 24 What we're calling the Ministry of Prisoner  
10:57:58 25 Affairs, where you work, how long has that been in

10:58:05 1 existence, if you know?

10:58:16 2 A. It was established in 1998.

10:58:19 3 Q. 1998.

10:58:20 4 With the same name?

10:58:23 5 A. With the same name.

10:58:24 6 Q. And when you met Mr. Rai -- Al-Rai, you

10:58:32 7 weren't working for that office?

10:58:38 8 A. For sure.

10:58:39 9 Q. Was that a time when you were in private

10:58:41 10 practice?

10:58:47 11 A. Yes. I already answered that question.

10:58:49 12 Q. Yeah. I just didn't remember the answer.

10:58:51 13 I'm sorry.

10:58:57 14 Do you recall who would have appointed you

10:58:59 15 to -- I think you said "appointed" -- you to represent

10:59:04 16 him?

10:59:16 17 A. I said I was with my partner. And it is the

10:59:21 18 family that have asked us to work on this case.

10:59:24 19 Q. I see. And -- and the fee would have been

10:59:26 20 paid by whom? The organization or the family?

10:59:36 21 A. The family, of course.

10:59:38 22 Q. I see. I see.

10:59:41 23 And in this ministry where you work now --

10:59:45 24 and let me explain. I'm asking you this ques -- these

10:59:54 25 questions to try to shortcut some things.

11:00:02 1 In this ministry -- in your work in this  
11:00:05 2 ministry, is this the same ministry that makes payments  
11:00:08 3 to prisoners -- Palestinian prisoners who are detained?  
11:00:24 4 A. Yes.  
11:00:25 5 Q. Is that part of your job duties also? Are  
11:00:28 6 you involved in any way in that system of making  
11:00:30 7 payments?  
11:00:42 8 A. Clarify your question.  
11:00:44 9 Q. Are you familiar with the system of payments  
11:00:47 10 that are made by the PNA to Palestinian prisoners who  
11:00:52 11 are detained?  
11:01:04 12 A. Correct.  
11:01:05 13 Q. Do you know, as you sit here today, based --  
11:01:10 14 based on any investigation or otherwise, whether  
11:01:17 15 Mr. Al-Rai ever received any prisoner payments from  
11:01:26 16 the PNA?  
11:01:40 17 A. I don't have anything that can confirm or  
11:01:44 18 deny this issue. But, supposedly, any person detained  
11:01:53 19 by the Israelis will get assistance from the ministry.  
11:01:59 20 Q. Tell me how that process would work.  
11:02:02 21 Is an application made? How does the PNA  
11:02:04 22 know that someone has been detained?  
11:02:07 23 (Pending question partially translated.)  
11:02:08 24 OFFICIAL INTERPRETER BEN-NAIM: The last part  
11:02:14 25 of the sentence?

11:02:14 1 Q. BY MR. SCHOEN: How does the PNA know that  
11:02:15 2 someone has been detained who needs to be paid?

11:02:26 3 MR. McALEER: Objection. Vague.

11:02:28 4 Counsel, do you mean detained by the Israelis?

11:02:31 5 MR. SCHOEN: Yes, I do.

11:02:40 6 THE WITNESS: The family see their way into  
11:02:44 7 the offices of the ministry. They fill up applications.  
11:02:51 8 They present the charge sheet or the sentence or  
11:02:58 9 a document from the Red Cross. And based on these  
11:03:09 10 documents -- based on these documents -- they check  
11:03:12 11 them, and based on that, they endorse this given person.

11:03:16 12 Q. BY MR. SCHOEN: That person's meeting with  
11:03:18 13 a clerk in the office or with a lawyer or -- the person  
11:03:23 14 making the application?

11:03:27 15 A. No. With regular clerks.

11:03:29 16 Q. And this is a standard form that asks for  
11:03:36 17 information?

11:03:45 18 A. It's a standard procedure.

11:03:49 19 Q. In other words, what prison? Why arrested?  
11:03:50 20 How old?

11:03:59 21 A. Personal information, particulars. We  
11:04:03 22 don't -- we don't care for the reason.

11:04:05 23 Q. The reason the person's being detained?

11:04:18 24 A. Having a document from the ICRC and the --  
11:04:23 25 the proof that the person is in Israeli prisons is

11:04:30 1 enough.

11:04:30 2 Q. Does it matter whether the person is charged  
11:04:33 3 with a crime -- a street crime like rape, something like  
11:04:38 4 that, robbery, or -- or called a security prisoner?

11:04:47 5 Or are they considered the same?

11:04:55 6 MR. McALEER: Objection. Beyond the scope.

11:04:56 7 But the witness may answer.

11:05:03 8 THE WITNESS: I feel compelled, you know, not  
11:05:16 9 to answer directly. But I will explain why we do this  
11:05:20 10 so that you'll -- you'll feel at ease.

11:05:28 11 Since the inception of the establishment of  
11:05:32 12 the P -- PA, according to the Accords, when indicated,  
11:05:41 13 it was supposed to become a state, and we were supposed  
11:05:46 14 to have a state. Of course, the state needs infra --  
11:05:51 15 needs structures and institutions.

11:06:01 16 According to the ICRC statistics, anywhere  
11:06:10 17 from 750,000 to 800,000 Palestinians have seen their  
11:06:16 18 way into prisons since the occupation started. This  
11:06:23 19 is a huge number for the Palestinian people.

11:06:35 20 Since the PA does not have, like many  
11:06:38 21 countries, like national security or health insurance  
11:06:41 22 or other facilities, so the role of such institutions  
11:06:50 23 in the rest of the world had to be handled by basically  
11:06:56 24 two major institutions. The first is the Ministry of  
11:07:04 25 Detainees and, second, is the Social Affairs Ministry.

11:07:18 1 The social -- the ministry pays only for  
11:07:21 2 people who are held under the security cases. We --  
11:07:36 3 we do not get involved in whether it was shooting or  
11:07:40 4 throwing a stone. What we care for is the document  
11:07:44 5 from the Red Cross. And regardless of the violation,  
11:07:51 6 the amount received is the same.

11:07:57 7 And we don't care which faction belonged to.  
11:07:59 8 This is not of concern to us. Because the general  
11:08:11 9 perspective is that you are not paying for the detainee  
11:08:15 10 but you are covering the needs of the family. And  
11:08:25 11 this is the same thing which Israel does for the Arab  
11:08:29 12 citizens within the State of Israel.

11:08:37 13 There are around 300 Israeli Arabs who are  
11:08:41 14 detained in the same prisons with the rest of the  
11:08:44 15 Palestinians. Part of them are convicted for killing  
11:08:52 16 Israeli soldiers and Israeli citizens. Despite that,  
11:08:59 17 the Israeli National Insurance continues to pay the --  
11:09:04 18 the allocations to their families.

11:09:10 19 Other kind of the street crimes that you  
11:09:12 20 have referred to, their families in such cases address  
11:09:20 21 themselves not to our ministry but to the social  
11:09:22 22 affairs. And this is where they can get some income  
11:09:29 23 and other safeguards. This is why we do not pay for  
11:09:37 24 street crimes.

11:09:38 25 Q. BY MR. SCHOEN: And the money that your

11:09:40 1 ministry pays to the detainee's family, does that --  
11:09:51 2 does that -- does it matter whether the detainee is  
11:09:55 3 a person who is earning money or not?

11:10:05 4 A. What do you mean?

11:10:06 5 Q. Well, it may be -- would you agree? --  
11:10:08 6 less expensive financially to the family if a member  
11:10:20 7 of their family is being detained and he was -- and  
11:10:26 8 he wasn't earning any money for that family so that,  
11:10:36 9 from strictly a financial point of view, the family's  
11:10:43 10 better off financially with that person detained.

11:10:54 11 Can you --

11:10:58 12 MR. McALEER: Objection to form. Objection  
11:11:01 13 to the form of the question. Assumes facts. Improper  
11:11:06 14 hypothetical. Compound. I'll leave it at that.

11:11:32 15 THE WITNESS: I am sorry, as a lawyer, that  
11:11:34 16 you imply as if people go and get detained in order to  
11:11:39 17 provide a source of income. All the funds in the world  
11:11:51 18 do not justify for somebody to be detained for one hour.

11:12:08 19 And -- and if this position is -- is correct,  
11:12:11 20 people would not go on a daily basis in order to request  
11:12:16 21 the release of their children. Somebody to go and sort  
11:12:27 22 of freeze his freedom for the sake of getting income  
11:12:33 23 does not make sense.

11:12:36 24 Q. BY MR. SCHOEN: I didn't mean to imply  
11:12:38 25 anything. I understood your explanation here today

11:12:48 1 and in other situations in which you have testified  
11:12:55 2 to be that the payments to the prisoners are -- to  
11:13:06 3 the prisoner's families -- I'm sorry -- were to act as  
11:13:12 4 a sort of Social Security or insurance for the family  
11:13:20 5 who's now without this person because -- because this  
11:13:33 6 person is being detained.

11:13:38 7 A. That's the general policy.

11:13:42 8 Q. But you would accept that the fact that a  
11:13:44 9 family member is being detained does not necessarily  
11:13:51 10 cause any financial loss to that family that you're  
11:14:04 11 paying?

11:14:14 12 A. There is always a loss. It could be ranging  
11:14:17 13 and relatively different, but there is always a loss.

11:14:21 14 Q. Always a financial loss to the family?

11:14:27 15 A. For sure a financial loss.

11:14:32 16 Q. Well, let's say the detainee is a person who,  
11:14:44 17 when he's living at home and not detained, spends the  
11:14:55 18 family's money freely, requires the family to pay a lot  
11:15:04 19 of money in food, clothing, and any other expenses for  
11:15:20 20 that family and now that person is detained.

11:15:31 21 Is it your position that that family suffered  
11:15:39 22 a financial loss --

11:15:44 23 A. Yes. Correct.

11:15:46 24 MR. McALEER: Hold on. He hadn't -- counsel  
11:15:47 25 had not finished his question.

11:15:50 1 Q. BY MR. SCHOEN: -- that -- that your ministry  
11:15:54 2 needs to -- so that your ministry needs to pay that  
11:15:59 3 family money still?

11:16:05 4 MR. McALEER: Objection. Improper  
11:16:05 5 hypothetical. And beyond the scope.

11:16:18 6 THE WITNESS: For sure I have spoken about the  
11:16:20 7 general philosophy as a ministry. And until this phase,  
11:16:34 8 we do not have exactly the mechanisms in order to -- to  
11:16:38 9 know who has and who hasn't in order to deal with the  
11:16:41 10 issue.

11:16:48 11 But having to do with somebody who is spending  
11:16:52 12 and the -- the hypothesis that you have come up with,  
11:16:57 13 as if he's a burden to the family and, as imprisonment,  
11:17:04 14 they sort of got rid of -- of the exorbitant expenses  
11:17:11 15 and now he becomes instead a source of income -- in  
11:17:17 16 fact, he costs them while he's in prison much more  
11:17:21 17 than if he's free.

11:17:24 18 Because in prison, in the State of Israel,  
11:17:25 19 there is only for the detainees to pay the rent for  
11:17:34 20 staying in prison. A prisoner costs his family not  
11:17:44 21 less than 1,000 shekels each month. Because the  
11:17:51 22 canteens in the prison are -- the prices are very,  
11:17:55 23 very high and -- and -- and all the food and clothing  
11:18:08 24 of the prisoners is purchased from the canteen on the  
11:18:12 25 account of the detainees.

11:18:19 1 And in previous times, the families were  
11:18:21 2 allowed to bring in certain food and certain papers.  
11:18:25 3 Now this has been banned. And -- and -- and I know,  
11:18:38 4 for instance, if a prisoner wants to purchase shoes --  
11:18:41 5 and there is the company called Dadash. I know that  
11:18:47 6 each shoe costs 400 to 500 shekels. [sic]  
11:18:52 7 CHECK INTERPRETER HAZOU: "700."  
11:18:55 8 THE WITNESS: Whereas, if he is out of prison,  
11:18:56 9 he can purchase it for 50 shekels.  
11:19:00 10 MR. McALEER: Wait. I'm sorry to interrupt.  
11:19:00 11 Just so we don't go too far --  
11:19:04 12 CHECK INTERPRETER HAZOU: I just want to --  
11:19:04 13 MR. McALEER: George, hold on.  
11:19:04 14 So we don't go too far -- and I'm sorry to  
11:19:08 15 interrupt the witness. My apologies to Mr. Schoen.  
11:19:10 16 However, I believe there was an issue that the check  
11:19:14 17 translator had regarding some aspect of the translation.  
11:19:17 18 OFFICIAL INTERPRETER BEN-NAIM: Can I  
11:19:19 19 translate just what he said before?  
11:19:21 20 MR. McALEER: Yes.  
11:19:29 21 (Last colloquy translated.)  
11:19:28 22 (Comment in Arabic by Check Interpreter  
11:19:28 23 Hazou.)  
11:19:30 24 CHECK INTERPRETER HAZOU: How much did you  
11:19:32 25 say it costs?

11:19:35 1 THE WITNESS: 400 to 700.

11:19:39 2 MR. McALEER: Thank you.

11:19:44 3 THE WITNESS: So if he is out of prison,

11:19:46 4 it is more comfortable for the family.

11:19:52 5 Q. BY MR. SCHOEN: Again, assuming he wants

11:19:54 6 to buy these things --

11:19:57 7 MR. McALEER: Same --

11:19:58 8 Q. BY MR. SCHOEN: -- in prison?

11:20:06 9 MR. McALEER: Same objections.

11:20:08 10 THE WITNESS: What do you mean "supposedly

11:20:10 11 that he wants"?

11:20:10 12 Q. BY MR. SCHOEN: I said "supposedly"?

11:20:14 13 You're not suggesting that for the Palestinian

11:20:17 14 prisoner in the Israeli jail, to get a meal in the

11:20:31 15 prison, he has to pay for that meal or he doesn't eat?

11:21:00 16 A. This is what you say. I haven't said that.

11:21:03 17 Q. No, no. I was asking whether you were saying

11:21:05 18 that.

11:21:08 19 A. That's not the way I am saying. They --

11:21:19 20 I said that the detainees buy their own food. And

11:21:23 21 if there is another thing, that's another issue.

11:21:26 22 Q. If they want to buy food -- extra food?

11:21:34 23 A. No, not extra.

11:21:36 24 Q. Okay. So then we're back where we started.

11:21:40 25 In order to get a meal for a Palestinian

11:21:43 1 prisoner in an Israeli jail, unless -- are you -- is  
11:21:55 2 it your testimony that, unless that detainee pays money  
11:22:05 3 and buys a meal, the Israelis will not give him any  
11:22:12 4 food?

11:22:27 5 A. The Red Cross pays funds for -- for the  
11:22:32 6 prisoners' daily -- for the food that is provided to  
11:22:36 7 the detainees. The prison authorities practically do  
11:22:46 8 provide food. But what is the content of this food?  
11:22:51 9 It is bad quality so that human beings cannot eat it.  
11:22:59 10 The amount is extremely little. And it is cooked by  
11:23:08 11 the Israeli criminal prisoners. And the detainees say,  
11:23:19 12 if you want, for instance, to cook rice, bring it raw,  
11:23:23 13 and we can cook it. And the prison authorities refuse  
11:23:28 14 that.

11:23:38 15 Bad -- bad quality and little amount. And  
11:23:41 16 when the Israeli criminal cooks, who are in prison,  
11:23:45 17 they put in it dirty stuff and sometimes insects.  
11:23:48 18 And this has happened frequently within the prisons.  
11:23:59 19 Lots of complaints were addressed to the prison  
11:24:02 20 authorities. So I have provided the food, but I  
11:24:09 21 have put dirty material in it. I -- I cannot say  
11:24:18 22 I provided food. But, you know, he -- he chose to --  
11:24:23 23 to -- to purchase his own food, so he is compelled  
11:24:29 24 to go and purchase the food.

11:24:38 25 Q. Do you believe that these kinds of complaints

11:24:41 1 about prisoners and prison food are unique to this  
11:24:57 2 situation, the Israeli-Palestinian situation?

11:24:58 3 (Comment in Arabic by Check Interpreter  
11:24:58 4 Hazou.)

11:24:59 5 OFFICIAL INTERPRETER BEN-NAIM: Okay.

11:25:08 6 (Pending question re-translated.)

11:25:12 7 THE WITNESS: For sure.

11:25:12 8 Q. BY MR. SCHOEN: I would invite you to come  
11:25:15 9 to my law practice, and you can see the complaints  
11:25:19 10 we make about the prisons in the United States.

11:25:38 11 A. I will be honored to come and see the  
11:25:40 12 practices in the States.

11:25:41 13 But I know that in Palestinian prisoners  
11:25:44 14 [sic], in this particular situation, the prisoners eat  
11:25:47 15 the same food that the security forces eat, the PA.  
11:25:59 16 And I went in Jordan to visit, you know, the Swaqa  
11:26:06 17 prison, and the food there is five stars.

11:26:09 18 Q. Does the --

11:26:09 19 A. I don't know.

11:26:09 20 Q. I'll finish this in -- within five minutes,  
11:26:13 21 I think.

11:26:17 22 Does -- does the prison ministry, your  
11:26:21 23 ministry, in addition to making payments to detainees'  
11:26:30 24 families, also pay the canteen directly?

11:26:50 25 A. Yes. We pay monthly expenses to the company

11:26:54 1 of Dadash and the prison authorities on a monthly basis.

11:26:59 2 And the Ministry of Finance defer funds for the criminal

11:27:05 3 detainees.

11:27:06 4 Q. (Not translated.) If a Palestinian is

11:27:07 5 detained in a -- sorry.

11:27:10 6 Are there Palestinian jails?

11:27:15 7 OFFICIAL INTERPRETER BEN-NAIM: Sorry?

11:27:16 8 Q. BY MR. SCHOEN: Are there Palestinian jails?

11:27:19 9 A. Of course.

11:27:19 10 Q. If a Palestinian is detained in a Palestinian

11:27:22 11 jail -- I'm using the term "jail" the same as "prison"

11:27:32 12 today.

11:27:32 13 If a Palestinian is detained in a Palestinian

11:27:38 14 jail, does your ministry or any other ministry you're

11:27:46 15 aware of make -- make payments to that detainee's

11:27:55 16 family?

11:27:57 17 A. For the family?

11:27:59 18 Q. Yes.

11:28:01 19 A. Ministry of Social Affairs.

11:28:02 20 Q. That Ministry of Social Affairs takes care

11:28:05 21 of that if it's a Palestinian in a Palestinian jail?

11:28:23 22 A. Yes. Correct.

11:28:23 23 Q. For each prisoner in a Palestinian jail, does

11:28:27 24 that family get a payment from this Ministry of Social

11:28:30 25 Affairs?

11:28:42 1 A. If the family addressed themselves and they  
11:28:46 2 want an income source, they -- they -- the ministry  
11:28:48 3 does provide the requirement.

11:28:51 4 Q. Do you know how many times Shaher Al-Rai  
11:28:56 5 was arrested?

11:29:03 6 A. No.

11:29:04 7 Q. You don't know how many times?

11:29:06 8 A. But I know that he was detained more than  
11:29:08 9 once.

11:29:09 10 Q. Uh-huh. Any estimate on how many times?  
11:29:13 11 You can't -- I don't want you to guess.

11:29:17 12 A. I don't know.

11:29:22 13 Q. By whom was he detained when he was detained?

11:29:35 14 A. When I took the case, he was imprisoned once  
11:29:39 15 in the Palestinian Authority. And several times he  
11:29:41 16 was detained by the Israelis.

11:29:43 17 Q. So by 1994 or 1995, he had been already  
11:29:49 18 detained once by the Palestinian Authority?

11:30:04 19 OFFICIAL INTERPRETER BEN-NAIM: Did you say  
11:30:04 20 how many times?

11:30:06 21 Q. BY MR. SCHOEN: And -- and several times by  
11:30:08 22 the Israelis?

11:30:10 23 MR. McALEER: Objection. Misstates testimony.

11:30:13 24 OFFICIAL INTERPRETER BEN-NAIM: Please repeat  
11:30:15 25 the question.

11:30:15 1 MR. SCHOEN: Yes.

11:30:17 2 Q. BY MR. SCHOEN: Is it your testimony that,

11:30:19 3 by the time you met Mr. Al-Rai in '94, '95, he

11:30:36 4 already -- he already had been -- he had been arrested

11:30:41 5 once before -- at least once before by the Palestinians?

11:30:43 6 (Pending question partially translated.)

11:30:44 7 OFFICIAL INTERPRETER BEN-NAIM: "By

11:30:56 8 Palestinians"?

11:30:56 9 (Comment in Arabic by the witness.)

11:30:58 10 (Remainder of pending question translated.)

11:30:59 11 THE WITNESS: The information I have is this

11:31:01 12 is the first time. I hadn't heard that he was detained

11:31:05 13 earlier --

11:31:05 14 (Comment in Arabic by the witness.)

11:31:06 15 THE WITNESS: -- by the Palestinians.

11:31:09 16 Q. BY MR. SCHOEN: You mean today is the first

11:31:11 17 time?

11:31:12 18 MR. McALEER: Counsel, let me -- let me --

11:31:14 19 let me see if we can clear this up.

11:31:17 20 You -- he -- he testified to his knowledge.

11:31:23 21 You didn't allocate it according to date. You then

11:31:27 22 posed a question saying: So is it your testimony

11:31:31 23 that -- and you put it into a date context in which

11:31:37 24 you indicated whether his testimony was that Mr. Shaher

11:31:46 25 Al-Rai had been in prison prior to 1994.

11:31:51 1 So when he just answered back that this is  
11:31:54 2 the first time he heard of it, he said this is the  
11:31:58 3 first time in your question today that he had heard  
11:32:03 4 of a pre-1994 imprisonment by Mr. Shaher Al-Rai.

11:32:12 5 And I'm sorry to go on, and I'm not trying  
11:32:16 6 to coach the witness. But that's where the confusion  
11:32:20 7 was. He didn't testify to a pre-'94 detention. You  
11:32:21 8 were the one who put it in your question, trying to,  
11:32:23 9 in your view, summarize what his testimony had been.

11:32:28 10 So my apologies for going on.

11:32:31 11 MR. SCHOEN: Thank you. Not "thank you"  
11:32:33 12 for apologizing. Thank you for explaining what  
11:32:37 13 you understand the confusion to be. Thank you for  
11:32:42 14 apologizing also.

11:32:45 15 Let me review it.

11:32:47 16 Q. BY MR. SCHOEN: You're aware that Mr. Al-Rai  
11:32:49 17 has been arrested on more than one occasion?

11:32:58 18 MR. ROCHON: You mean --

11:32:58 19 THE WITNESS: Yes.

11:32:58 20 MR. ROCHON: -- sitting here today; right?

11:33:00 21 MR. SCHOEN: Yes.

11:33:00 22 MR. ROCHON: That's where the confusion was.

11:33:02 23 MR. SCHOEN: I said: "You are aware of it."

11:33:04 24 Q. BY MR. SCHOEN: Sitting here today, do you  
11:33:10 25 know whether, when you met Mr. Al-Rai --

11:33:13 1 (Pending partial question translated.)

11:33:18 2 OFFICIAL INTERPRETER BEN-NAIM: Go on.

11:33:20 3 Q. BY MR. SCHOEN: (Not translated.) -- in '94,

11:33:21 4 '95, do you know whether you knew then that he had been

11:33:29 5 previously arrested?

11:33:33 6 OFFICIAL INTERPRETER BEN-NAIM: No, I'm sorry.

11:33:37 7 (Pending question translated by Official

11:33:37 8 Interpreter Aghazarian.)

11:33:38 9 THE WITNESS: (Translated.) I answered

11:33:45 10 this question. I don't know what you are up to.

11:33:57 11 When I visited him, he informed me that

11:33:59 12 he was detained by the Israelis [sic]. I don't know

11:34:02 13 what detentions were previously.

11:34:04 14 (Comment in Arabic by Check Interpreter

11:34:04 15 Hazou.)

11:34:04 16 THE WITNESS: (In English.) "By

11:34:04 17 Palestinians."

11:34:04 18 OFFICIAL INTERPRETER BEN-NAIM: "By the

11:34:04 19 Palestinians."

11:34:05 20 OFFICIAL INTERPRETER AGHAZARIAN: "By

11:34:08 21 Palestinians."

11:34:13 22 Q. BY MR. SCHOEN: To be clear, I'm not trying --

11:34:15 23 I'm not up to anything. Your lawyers had said that I

11:34:21 24 wasn't clear in my question.

11:34:29 25 As you sit here today, is it your

11:34:34 1 understanding that Mr. Al-Rai was arrested and detained  
11:34:46 2 several times by the Israelis?

11:34:53 3 A. Correct.

11:34:54 4 Q. Do you have any idea of a time frame for any  
11:34:57 5 of those detentions by the Israelis?

11:35:08 6 A. No.

11:35:12 7 Q. Do you understand them to have been before  
11:35:15 8 you met him in 1994 and 1995?

11:35:27 9 A. There were detentions before as well as after.

11:35:29 10 Q. Okay. Do you know when Mr. Al-Rai's most  
11:35:34 11 recent detention was by the Israelis?

11:35:43 12 A. No.

11:35:44 13 Q. And you don't know how many total detentions  
11:35:47 14 he had?

11:35:49 15 A. No.

11:35:50 16 Q. And do you know how many total detentions  
11:35:53 17 Mr. Al-Rai had by the Palestinians?

11:36:04 18 A. I know on -- on one time.

11:36:06 19 Q. (Not translated.) The '94, '95?

11:36:09 20 A. (In English.) Yeah.

11:36:09 21 (Pending question translated.)

11:36:10 22 THE WITNESS: Yes.

11:36:13 23 Q. BY MR. SCHOEN: Okay. When you were asked  
11:36:14 24 to appear today, you understood that you were to  
11:36:20 25 testify about Mr. Al-Rai?

11:36:29 1 A. Correct.

11:36:30 2 Q. Did you understand that you were just to

11:36:31 3 testify about one arrest?

11:36:44 4 A. Yes. This is what I understood.

11:36:47 5 Q. What arrest was that?

11:36:55 6 A. The detention of 1994, '95.

11:36:59 7 Q. Your understanding is you were asked to come

11:37:02 8 here today to testify just about Mr. Al-Rai's arrest

11:37:07 9 and detention in 1994, '95?

11:37:21 10 A. Essentially, yes.

11:37:22 11 Q. What was Mr. Al-Rai arrested for in 1994

11:37:24 12 and '95, if you remember?

11:37:35 13 A. A charge sheet was directed to him with

11:37:37 14 two items, opposing the general policy of the PA

11:37:48 15 and undermining Palestinian national security.

11:37:57 16 Q. Did you understand that, at the time, the

11:38:00 17 charges you just described, there were -- there was

11:38:15 18 an investigation concerning Mr. Al-Rai in Israel?

11:38:37 19 A. I want to put it in a nutshell, summarize

11:38:40 20 it for you so that you feel at ease.

11:38:48 21 We were assigned to defend Mr. Al-Rai.

11:38:51 22 And at the time, this was an issue that was making

11:39:00 23 an outrage in the -- in the -- in the media. I went

11:39:08 24 with my partner, attorney Abdel Karim Hannun, to

11:39:15 25 Jericho. We met them, Shaher and Yusef, his colleague.

11:39:20 1 They were together in the jail.

11:39:24 2 It was a short meeting. Through this meeting,

11:39:32 3 we understood that no interrogation was conducted with

11:39:37 4 them. They were only told that we received from the

11:39:47 5 Israeli side information of an interrogation with Jamal

11:39:53 6 Al-Hindi and, according to these confessions, these two,

11:40:01 7 together with Jamal Al-Hindi, participated in killing

11:40:07 8 Israeli citizens.

11:40:15 9 They completely denied such charges. But

11:40:24 10 the charge sheet and the whole case was built on

11:40:28 11 this confession that happened at the Israeli side.

11:40:36 12 We requested at the time to have a photocopy of the

11:40:39 13 dossier and the -- and the probe into it.

11:40:46 14 The Palestinian prosecution informed us --

11:40:48 15 CHECK INTERPRETER HAZOU: Wait. Wait.

11:40:52 16 (Comment in Arabic by Check Interpreter

11:40:52 17 Hazou.)

11:41:00 18 THE WITNESS: The Palestinian military

11:41:02 19 prosecution told us that we will inform you when you

11:41:08 20 can photocopy the file. Why? Because he was condemned

11:41:19 21 within the Palestinian military prosecution.

11:41:27 22 And we returned with my partner to Tulkarem.

11:41:34 23 I got home at 8:00 o'clock in the evening or something

11:41:38 24 around that. I remember at 3:00 a.m., there was

11:41:46 25 a telephone ringing that woke me up, and there was

11:41:50 1 continuous, like, a call.

11:41:59 2 So I went -- I was very alarmed, you know,  
11:42:02 3 that maybe somebody in the family died or something.  
11:42:08 4 I was surprised that somebody said: This is -- is  
11:42:12 5 this attorney Jawad Amawi?

11:42:17 6 I told him: Yes, this is him.

11:42:21 7 He said: This is Abu Ziad Al-Bishtawi talking  
11:42:27 8 to you, the head of the military prosecution in the  
11:42:32 9 Jericho court. Within half an hour, he told me, you  
11:42:39 10 have to be in my office in Jericho because the session  
11:42:49 11 having to deal with the case of Shaher and Yusef will  
11:42:57 12 be held within half an hour. Of course, from my home  
11:43:05 13 to Jericho I need a couple hours.

11:43:12 14 I answered him literally that my helicopter  
11:43:16 15 is not available. You can take them to court the way  
11:43:23 16 you want. I closed the telephone, and I took out, you  
11:43:30 17 know, the cable.

11:43:34 18 (Comment in Arabic by Check Interpreter  
11:43:34 19 Hazou.)

11:43:38 20 THE WITNESS: And in the morning, it was all  
11:43:40 21 over the papers that they were condemned. My colleague  
11:43:47 22 Abdel Karim, was nervous. How can they sort of condemn  
11:43:55 23 them, and we have -- we don't know about it?

11:43:57 24 I said: Don't be unfair to them. They did  
11:44:03 25 inform us at 3:00 a.m.

11:44:04 1 MR. SCHOEN: Can I just interrupt one second?

11:44:04 2 When you use the word "condemned" in English, might he

11:44:09 3 mean "convicted"?

11:44:10 4 CHECK INTERPRETER HAZOU: Well, it's "tried."

11:44:12 5 MR. SCHOEN: "Tried"?

11:44:13 6 CHECK INTERPRETER HAZOU: "Tried." "They

11:44:13 7 were tried."

11:44:17 8 (Comment in Arabic by Check Interpreter

11:44:17 9 Hazou.)

11:44:43 10 CHECK INTERPRETER HAZOU: "They were tried."

11:44:44 11 He said: "They were tried."

11:44:50 12 THE WITNESS: This is in a nutshell what

11:44:53 13 happened in the case of Shaher and Yusef.

11:45:00 14 The family requested that we present an

11:45:02 15 appeal. And after I studied the case, me and my

11:45:04 16 partner, we apologized to the family that we cannot

11:45:05 17 go on in pursuing this file. And we made it clear

11:45:07 18 to the family that it is not that we are not willing

11:45:08 19 to engage in this case. We advise you to save your

11:45:09 20 money, whether it is to us or to others, because this

11:45:10 21 is a political trial and, whether we attend or we

11:45:11 22 appeal, nothing will change. And the family was

11:45:12 23 convinced by this argument, and they did not appeal.

11:45:13 24 I hope that you have had the full picture

11:45:15 25 of the matter.

11:45:15 1 Q. BY MR. SCHOEN: I want to try to give you  
11:45:16 2 my understanding, and tell me if I'm correct.

11:45:17 3 Al-Rai was suspected of committing a murder  
11:45:18 4 by the Israelis -- of an Israeli or more than one  
11:45:19 5 Israeli?

11:45:27 6 A. Yes. There was an accusation directed against  
11:45:33 7 him.

11:45:33 8 Q. And at -- at that time, in the system op --  
11:45:38 9 operating then, the process would be something like  
11:45:51 10 Israel would make a request or demand to turn him over  
11:45:55 11 to Israel; right?

11:46:05 12 A. According to the Oslo Accords, if a  
11:46:14 13 Palestinian in Areas A, B, under Palestinian control,  
11:46:17 14 conducts a violation against an Israeli citizen, the  
11:46:29 15 Israeli authorities have the right to bring him to  
11:46:33 16 trial within its premises. This right comes to an  
11:46:44 17 end in case he's tried by the PA.

11:46:47 18 Q. And when you say you believe it was a  
11:46:51 19 political thing --

11:46:58 20 A. Yes.

11:46:58 21 Q. -- what you mean is the P -- the PNA made a  
11:47:08 22 very quick trial, on the one hand, so they wouldn't have  
11:47:17 23 to turn them over to Israel, but on the other hand, it's  
11:47:27 24 something that upset the family because they wanted a  
11:47:31 25 full trial?

11:47:49 1 A. You have a hypothesis that I cannot confirm,  
 11:47:52 2 why did they make this quick trial. I said -- said  
 11:48:15 3 this is a political trial because military tribunals  
 11:48:17 4 all over the world are illegitimate and usually they  
 11:48:22 5 carry political reasons behind them.

11:48:29 6 What you say may be correct, that they do  
 11:48:34 7 not want to hand them over. But -- but I cannot, you  
 11:48:42 8 know, guarantee that because I have not been responsible  
 11:48:46 9 for -- for their trial.

11:48:49 10 Q. You said originally -- the term in English  
 11:48:52 11 I heard was that there was originally an "outrage"  
 11:48:56 12 about the incident -- the arrest of Al-Rai?

11:49:34 13 A. This was in the media, that there has been,  
 11:49:36 14 you know, a lot of outrage that they were detained,  
 11:49:40 15 a lot of noise.

11:49:43 16 MR. McALEER: I'm sorry. Mr. Aghazarian,  
 11:49:44 17 were you finished? There -- there seems to be an  
 11:49:49 18 issue over the translation that the check translator  
 11:49:52 19 has.

11:49:52 20 CHECK INTERPRETER HAZOU: No, he also  
 11:49:54 21 turned my attention, because "outrage" means big --  
 11:49:57 22 "big thing," "big time," you know. "Outrage."

11:49:59 23 (Comment in Arabic by Check Interpreter  
 11:49:59 24 Hazou.)

11:49:59 25 CHECK INTERPRETER HAZOU: He said the word --

11:50:03 1 (Comment in Arabic by Check Interpreter  
11:50:03 2 Hazou.)  
11:50:03 3 CHECK INTERPRETER HAZOU: I would say --  
11:50:04 4 (Comment in Arabic by Check Interpreter  
11:50:04 5 Hazou.)  
11:50:05 6 CHECK INTERPRETER HAZOU: Perhaps he means --  
11:50:07 7 he means "hustle and bustle," you know.  
11:50:09 8 OFFICIAL INTERPRETER BEN-NAIM: Hustle and  
11:50:09 9 bustle.  
11:50:10 10 CHECK INTERPRETER HAZOU: Some noise --  
11:50:11 11 some noise, media -- media noise, hustle and bustle.  
11:50:17 12 "Outrage" would mean -- would mean "big time."  
11:50:38 13 THE WITNESS: Somebody -- somebody could  
11:50:40 14 be detained, and there is no noise. And somebody  
11:50:43 15 could be detained, and there is a lot of noise. And  
11:50:45 16 it was the Israeli radio that was fanning these news.  
11:50:51 17 Q. BY MR. SCHOEN: The noise was about the  
11:50:53 18 accusation that Al-Rai had been -- the accusation that  
11:50:59 19 Al-Rai had been involved with the murder of an Israeli?  
11:51:07 20 A. Yes. Correct.  
11:51:10 21 Q. How long -- what was the sentence that Al-Rai  
11:51:19 22 got, if you remember?  
11:51:22 23 A. I think seven years' detention.  
11:51:25 24 Q. Uh-huh. All right. Let me just show the  
11:51:31 25 video now and see if you recognize Al-Rai.

11:51:34 1 MR. SCHOEN: It takes about three minutes.

11:51:34 2 Oh, you don't have three minutes?

11:51:35 3 THE VIDEOGRAPHER: We have three minutes, but

11:51:37 4 you want this --

11:51:37 5 MR. SCHOEN: Yeah.

11:51:40 6 THE WITNESS: What is the purpose of -- I saw

11:51:41 7 it already.

11:51:43 8 Q. BY MR. SCHOEN: (Not translated.) Aah. You

11:51:43 9 saw the video during the break?

11:51:45 10 A. (In English.) Yeah.

11:51:46 11 Q. So very simple, did you recognize anyone in

11:51:49 12 that video?

11:51:55 13 A. I am honest. I don't recall people.

11:51:58 14 Q. I assume you're being honest with everything

11:52:01 15 you say.

11:52:11 16 A. You know, I mean, sometimes you could see,

11:52:13 17 could it be him or others? So in order to -- to --

11:52:17 18 to sort of determine the issue -- you have -- you have

11:52:28 19 asked me how many people you have defended, and I told

11:52:32 20 you thousands. And often people greet me, salute me

11:52:36 21 in the street. They said: You were my lawyer. And

11:52:40 22 I do not recall them.

11:52:46 23 In 2001 alone, in the Qanun Institute, I

11:52:51 24 have -- I have defended 2,500 people. And my colleague

11:52:56 25 George was working in the same organization. It's

11:53:02 1 impossible to remember all these faces. And if this  
11:53:10 2 was a regular case, I would not have been a witness  
11:53:13 3 in the way I am making now.

11:53:20 4 But for sure, somebody who calls and wakes  
11:53:23 5 you up at 3:00 a.m. becomes indelible. You can remember  
11:53:28 6 it. If it's a normal case, I cannot give you any  
11:53:33 7 details.

11:53:34 8 Q. My only question, then, on that is -- I  
11:53:39 9 don't know if you could hear well enough. But you saw  
11:53:42 10 there were two people on the video, who the announcer  
11:53:52 11 identified as Yusef and Shaher Al-Rai.

11:54:03 12 As you sit here today, you don't know whether  
11:54:07 13 that's really Yusef and Shaher Al-Rai?

11:54:15 14 A. It could be them. It could -- but I assume  
11:54:21 15 that, if there was a TV interview, it must be real.

11:54:25 16 Q. And also there was a Palestinian official,  
11:54:28 17 Saeb Erekat?

11:54:37 18 A. Saeb is well-known. He is all the time in  
11:54:41 19 the media.

11:54:41 20 Q. No, no. I'm just asking: You recognize him  
11:54:44 21 on the video?

11:54:46 22 A. Of course.

11:54:47 23 Q. And there was a person who they said was  
11:54:48 24 a general, some kind of Palestinian official who was  
11:54:51 25 speaking.

11:54:56 1 A. I saw him, but I did not recognize him.

11:54:59 2 Q. Would it help you if you saw it again?

11:55:01 3 Would it help you determine if you would

11:55:04 4 know him, the general?

11:55:09 5 A. I have looked carefully, but I could not

11:55:12 6 recognize.

11:55:13 7 Q. So you don't know the name of that person?

11:55:17 8 A. No.

11:55:17 9 MR. SCHOEN: Okay. Let's take the break.

11:55:18 10 That's all I -- I'm sorry. Before we take the break,

11:55:20 11 that's all I wanted from the video, by the way.

11:55:26 12 THE VIDEOGRAPHER: Going off the record at

11:55:27 13 11:55.

11:55:29 14 (Recess from 11:55 a.m. to 12:10 p.m.)

12:10:45 15 THE VIDEOGRAPHER: Going back on record at

12:10:46 16 12:10.

12:10:54 17 Q. BY MR. SCHOEN: Mr. Amawi, I believe you said

12:10:57 18 your recollection is you think Mr. Al-Rai was sentenced

12:11:02 19 to about seven years --

12:11:11 20 (Pending question partially translated.)

12:11:11 21 MR. SCHOEN: "Al-Rai sentenced to about seven

12:11:13 22 years in prison."

12:11:15 23 (Remainder of pending question translated.)

12:11:16 24 THE WITNESS: That's what I think.

12:11:18 25 Q. BY MR. SCHOEN: Have you --

12:11:22 1 A. I haven't seen the sentence.

12:11:24 2 Q. I see.

12:11:26 3 Did you review any papers in preparing for

12:11:28 4 the deposition today?

12:11:36 5 A. No.

12:11:36 6 Q. You didn't look at any file for Mr. Al-Rai?

12:11:50 7 A. The file -- I already -- I already mentioned

12:11:52 8 that our office has became [sic] a military post and

12:11:56 9 all the papers vanished. And there was no dossier

12:12:04 10 because we were not allowed to photocopy in the first

12:12:09 11 place. There was a power of attorney from the family

12:12:12 12 and some documents here and there.

12:12:16 13 Q. Did you review those documents?

12:12:26 14 A. I say that within 2000 and 2001, when -- when

12:12:31 15 our office was detained and became like a military post,

12:12:35 16 all the papers disappeared.

12:12:37 17 Q. I -- I thought you meant that there were still

12:12:40 18 left a power of attorney and some other documents.

12:12:43 19 But there were no documents?

12:12:54 20 A. No. Nothing was left.

12:12:56 21 Q. Would there -- in the normal course of things,

12:13:02 22 would there have been a court file also for Mr. Al-Rai?

12:13:18 23 A. Usually -- usually there should be. But

12:13:23 24 according to the Union of Lawyers, we -- we should keep

12:13:28 25 the files for seven years. But after seven years, it

12:13:31 1 becomes -- becomes outdated.

12:13:39 2 Q. Do you have any copy of any document related  
12:13:41 3 to Mr. Al-Rai in your office?

12:13:55 4 A. In my office, in the year 2000, there wasn't  
12:13:58 5 a single paper left, not for Al-Rai and not for any  
12:14:02 6 other person.

12:14:03 7 Q. Do you know whether the family of Al-Rai made  
12:14:07 8 a -- made a request for payment for his -- because he  
12:14:13 9 was detained?

12:14:20 10 A. While he was in prison with the PA?

12:14:23 11 Q. Yes.

12:14:24 12 A. I have no idea.

12:14:26 13 Q. Is there a place you could look to find out?

12:14:45 14 A. This is a very old period. At the time, the  
12:14:48 15 PA was only in Jericho -- based in Jericho, because the  
12:14:54 16 Declaration of Principles was to have Gaza and Jericho.  
12:15:01 17 That was -- the reason that they were detained -- the  
12:15:11 18 reason they were detained is that they were in Jericho.  
12:15:14 19 Otherwise, you know, if they were in Kalkilya, the PA  
12:15:14 20 at the time could not arrest them, because it was at  
12:15:27 21 the initial phase and the PA did not have the authority  
12:15:31 22 to -- to detainee them at the time. Otherwise, they  
12:15:34 23 would have been left out.

12:15:36 24 Q. Do you know whether Mr. Al-Rai was detained  
12:15:39 25 by either the Israelis or the Palestinians after this

12:15:42 1 Jericho incident?

12:15:57 2 A. Yes. I know that they were detained after

12:15:59 3 they were released from Jericho, from the Israeli side.

12:16:03 4 Q. They were detained by the Israeli side?

12:16:06 5 OFFICIAL INTERPRETER AGHAZARIAN: Yes.

12:16:07 6 THE WITNESS: Correct.

12:16:10 7 Q. BY MR. SCHOEN: Do you know whether as you --

12:16:11 8 do you know whether Mr. Al-Rai's family has ever made

12:16:16 9 any request for payment because of his detention?

12:16:31 10 A. Where? When?

12:16:33 11 Q. Any -- at anytime.

12:16:50 12 A. I have already answered that, during his

12:16:52 13 detention in Jericho, there weren't institutions. So

12:16:56 14 I would appreciate if you ask a specific question so

12:16:59 15 that I answer in a specific manner.

12:17:04 16 Q. Well, first of all, before Jericho, which

12:17:07 17 I mean '94, '95, I understood records were destroyed --

12:17:14 18 sorry. I said "before." I meant "since that date."

12:17:19 19 I want to focus on after Jericho, then.

12:17:25 20 You said that you're aware he was detained

12:17:27 21 by the Israelis?

12:17:32 22 A. Correct.

12:17:33 23 Q. Do you know whether Mr. Al-Rai's family made

12:17:36 24 any request for payment because of his detention by the

12:17:41 25 Israelis?

12:17:58 1 A. I haven't seen an application. But I assume,

12:18:04 2 yes, there must have been, like any other Palestinian

12:18:08 3 detainee --

12:18:12 4 Q. All right. So --

12:18:12 5 A. -- held -- held on the Israeli side.

12:18:15 6 MR. SCHOEN: "Held on the Israeli side"?

12:18:18 7 OFFICIAL INTERPRETER AGHAZARIAN: (Interpreter

12:18:18 8 nods head in the affirmative.)

12:18:19 9 Q. BY MR. SCHOEN: Okay. You told us before,

12:18:21 10 if an application is made, the family comes to your

12:18:27 11 office?

12:18:31 12 A. It's not my office.

12:18:32 13 Q. The office of your ministry?

12:18:37 14 A. (In English.) It's okay.

12:18:38 15 (Translated.) Correct.

12:18:39 16 Q. Is there more than one office, or is

12:18:42 17 there only one place for people to come to make

12:18:44 18 the application?

12:18:52 19 A. The main headquarters of the ministry is

12:18:54 20 in the town of Ramallah. And the ministry has branches

12:19:01 21 in all the governorates of the West Bank.

12:19:05 22 Q. So if a person -- if a person from Kalkilya

12:19:08 23 were detained, the procedure would be for his family

12:19:15 24 to go to a ministry office in Kalkilya to ask -- to

12:19:18 25 make application for the payment?

12:19:28 1 A. Correct.

12:19:29 2 Q. And when that person makes the application  
12:19:31 3 we talked about, what happens to that piece of paper  
12:19:39 4 they filled out, the application?

12:19:49 5 A. This application is dispatched to the  
12:19:51 6 ministry, from the Kalkilya branch to the headquarters,  
12:19:53 7 to Ramallah. This is until -- after 2007, this is the  
12:20:01 8 procedure. Before -- before 2007, the headquarters  
12:20:12 9 were in Gaza, before there was the coup d'etat, and  
12:20:17 10 so no more to Gaza.

12:20:21 11 All branches were -- all the documents were  
12:20:30 12 dispatched to Gaza previously before, and the Ramallah  
12:20:37 13 office like -- was like a branch like all the other  
12:20:41 14 governorates. The fall of Gaza under the rule of Hamas,  
12:20:48 15 and it's controlling everything, so the ministry was  
12:20:58 16 established anew in Ramallah. And we proceed from  
12:21:01 17 there. And until now, we are trying to gather data  
12:21:11 18 that is available. And this is still far from being  
12:21:15 19 complete.

12:21:16 20 Q. Would they, in the normal course of things --  
12:21:18 21 would they, in the normal course of things, keep a  
12:21:24 22 copy of the application in the Kalkilya office if  
12:21:27 23 the application was made in Kalkilya?

12:21:41 24 A. No.

12:21:43 25 Q. After 2007, you're most familiar with that

12:21:50 1 process now?

12:21:57 2 A. I became familiar, rather, after 2008.

12:22:01 3 Q. Okay. Today -- let's take today, as you  
12:22:07 4 sit here. If a person make -- the family makes  
12:22:09 5 application, the application is sent to Ramallah.

12:22:18 6 And then what?

12:22:20 7 Is a file -- a paper file created for the  
12:22:23 8 detainee's payments?

12:22:50 9 A. The application is dispatched with a special  
12:22:53 10 relevant unit and endorsed. It's not decision taking  
12:22:58 11 it will be endorsed. [sic] And the decision is taken  
12:23:01 12 in order to start providing the -- the funds. And they  
12:23:10 13 would put it in envelopes after they complete the thing,  
12:23:13 14 either in boxes or in certain special envelopes. And  
12:23:21 15 it is not stored in a proper archival manner.

12:23:34 16 And it was problematic to the families  
12:23:37 17 because sometimes, if there is something missing, they  
12:23:40 18 would come up with certain documents five or six times.  
12:23:47 19 Starting from this year, there is an attempt to start  
12:23:50 20 a proper type of archives. This has not been complete  
12:23:56 21 yet. We hope that this will be achieved within the  
12:24:01 22 coming year.

12:24:04 23 Q. How about when the application -- if an  
12:24:06 24 application were made in the period of time from 2000  
12:24:12 25 to 2006, let's say, and that person is still being

12:24:27 1 detained today --

12:24:33 2 A. (In English.) Okay.

12:24:34 3 Q. -- how would you determine that that's a

12:24:37 4 person who made application and is entitled to payments?

12:24:55 5 A. He was, say, detained in the year 2000,

12:24:56 6 and later on, an application was done, and the sort

12:25:02 7 of allowances were -- started to be paid. With the

12:25:12 8 fall of Gaza in the year 2006, there was a CD that had

12:25:17 9 contained -- for the monthly payments to be dispatched.

12:25:26 10 It was this CD that we have endorsed in order to pursue

12:25:30 11 payments and deal with the matters.

12:25:33 12 What is existing until this moment -- those

12:25:40 13 detainees who are still there in detention since the

12:25:43 14 year 2000, now we started to gather the data in order

12:25:51 15 to start new, complete dossiers.

12:25:56 16 Q. But the CD is something that was rescued from

12:26:00 17 Gaza?

12:26:07 18 A. Yes. There was a CD that employees of the

12:26:12 19 ministry managed to get it out.

12:26:14 20 Q. And that has some records, but not all

12:26:17 21 records?

12:26:30 22 A. It's not -- it's not records. But it has

12:26:32 23 the names of the detainees, the time span of the --

12:26:36 24 of the sentence, of the detention. And that's what

12:26:41 25 it is.

12:26:41 1 Q. And if you wanted to find out -- if you wanted  
12:26:44 2 to find out for --  
12:26:46 3 CHECK INTERPRETER HAZOU: It's a financial CD.  
12:26:47 4 MR. SCHOEN: I'm sorry?  
12:26:48 5 CHECK INTERPRETER HAZOU: It's a financial CD.  
12:26:48 6 Q. BY MR. SCHOEN: Financial CD with data on  
12:26:50 7 it -- information, data on it? It would --  
12:27:02 8 A. Correct.  
12:27:02 9 Q. It would have the detainee's name and the  
12:27:03 10 amount that's been paid to the detainee?  
12:27:10 11 A. And the -- the time of detention.  
12:27:13 12 CHECK INTERPRETER HAZOU: No, no. "The period  
12:27:14 13 of sentence."  
12:27:15 14 MR. SCHOEN: "The length of" --  
12:27:16 15 CHECK INTERPRETER HAZOU: "Of the sentence."  
12:27:19 16 MR. McALEER: Does the official translator  
12:27:22 17 accept that proposed translation?  
12:27:26 18 THE WITNESS: The sentence period.  
12:27:27 19 Q. BY MR. SCHOEN: Meaning the length of the  
12:27:29 20 sentence?  
12:27:30 21 CHECK INTERPRETER HAZOU: Yes.  
12:27:31 22 OFFICIAL INTERPRETER AGHAZARIAN: Yes.  
12:27:34 23 THE WITNESS: Sentence, five years or one  
12:27:36 24 year.  
12:27:38 25 CHECK INTERPRETER HAZOU: Thanks.

12:27:39 1 Q. BY MR. SCHOEN: And is there an identification  
12:27:40 2 number for each person?

12:27:43 3 A. Yes, of course.

12:27:44 4 Q. So if you wanted to find out whether any  
12:27:47 5 particular person who was detained made an application,  
12:27:50 6 you could do a search by the name or by identification  
12:28:02 7 number?

12:28:14 8 A. If somebody receives allowances from the  
12:28:19 9 ministry, then this will appear as what amounts have  
12:28:26 10 been received. It's on the lists.

12:28:30 11 Q. (Not translated.) How -- how are you  
12:28:55 12 physically moving the paper files during that time  
12:29:04 13 period you spoke about when the files were all  
12:29:09 14 transferred to Gaza, sent to Gaza?

12:29:14 15 OFFICIAL INTERPRETER BEN-NAIM: I will add  
12:29:16 16 "mail" --

12:29:21 17 MR. SCHOEN: Sent.

12:29:22 18 OFFICIAL INTERPRETER BEN-NAIM: -- just for --  
12:29:22 19 okay. By mail?

12:29:22 20 MR. SCHOEN: I don't know. That's what I'm  
12:29:23 21 asking.

12:29:23 22 OFFICIAL INTERPRETER BEN-NAIM: Okay.

12:29:24 23 (Pending question translated.)

12:29:28 24 THE WITNESS: It used to be put in boxes and  
12:29:31 25 dispatched with the post office.

12:29:35 1 Q. BY MR. SCHOEN: Do you know when Mr. Al-Rai  
12:29:37 2 was released on this Jer -- he was detained in Jericho  
12:29:41 3 from the '94, '95 arrest; right?  
12:29:52 4 A. Correct.  
12:29:53 5 OFFICIAL INTERPRETER BEN-NAIM: "Do you know"?  
12:29:55 6 MR. SCHOEN: No. I just ask what I asked.  
12:29:57 7 OFFICIAL INTERPRETER BEN-NAIM: Aah, okay.  
12:29:58 8 Q. BY MR. SCHOEN: Was he detained in Jericho?  
12:30:01 9 A. Yes, in Jericho.  
12:30:02 10 Q. And do you know when he was released?  
12:30:06 11 A. No.  
12:30:06 12 Q. Do you know whether he served the full  
12:30:09 13 seven-year sentence?  
12:30:15 14 A. I have no idea. I can't tell.  
12:30:17 15 Q. Do you know whether, during the seven years,  
12:30:18 16 he was released and then locked up again anytime?  
12:30:33 17 MR. McALEER: Objection. Vague.  
12:30:34 18 Counsel, are you talking about locked up by  
12:30:37 19 the Palestinian Authority or by Israel?  
12:30:43 20 Q. BY MR. SCHOEN: I mean by the Palestinians.  
12:30:44 21 Was he released from the jail and then taken  
12:30:49 22 back into the jail?  
12:31:04 23 A. I don't have a ready-made answer. But  
12:31:14 24 according to the Palestinian law, unlike the Israeli  
12:31:17 25 law, we don't have a system to release for a period

12:31:19 1 and then bring him back. They have to -- to pass the  
12:31:25 2 entire sentence or get --

12:31:32 3 CHECK INTERPRETER HAZOU: "Amnesty."

12:31:34 4 THE WITNESS: -- amnesty.

12:31:42 5 But there were other elements that interfered  
12:31:44 6 with this dossier at a later period. Because the person  
12:31:56 7 that allegedly has made the confession, Jamal Al-Hindi,  
12:32:01 8 who was detained on the Israeli side and he confessed  
12:32:09 9 that they have been involved in the murder, his lawyer  
12:32:15 10 was able to prove through -- through the Israeli  
12:32:18 11 military tribunal that this confession is false and  
12:32:27 12 it was extracted under torture.

12:32:41 13 It -- it was proven that this person was  
12:32:44 14 working in a West Bank settlement. And for everybody  
12:32:57 15 who works in settlements, Palestinians, they have to  
12:33:01 16 sort of press their card in the morning and in the  
12:33:04 17 evening by the security at the entrance of the gate.  
12:33:21 18 And this documentation at the settlement proved that  
12:33:26 19 he was on his job in the settlement between 8:00 a.m.  
12:33:31 20 and 4:00 p.m. And the -- the murder was supposed to  
12:33:36 21 have taken place around noon. And as much -- somebody  
12:33:45 22 cannot be in Kalkilya and in Jericho at the same time.

12:33:51 23 So based on this, Jamal Hindi was sentenced  
12:33:54 24 to be innocent. And if the main person confessing  
12:34:03 25 has -- is proven to be innocent -- and this is not

12:34:07 1 an assumption because, as we mentioned earlier, he  
12:34:15 2 was detained later -- after he left, he was detained  
12:34:18 3 by the Israelis, and now he's in Kalkilya. The Israelis  
12:34:26 4 can get him anytime they -- they would want to. And  
12:34:34 5 if it was proven that he -- he has murdered an Israeli,  
12:34:38 6 he would have had a life sentence.

12:34:51 7 And all those whose hands are -- have blood,  
12:34:56 8 they -- they will not be released, despite all the  
12:35:00 9 negotiations and so on. And this proves -- that  
12:35:10 10 Shaher and Yusef and Jamal are free outside prison,  
12:35:15 11 this proves that their hands were not smeared with  
12:35:24 12 blood.

12:35:25 13 Q. BY MR. SCHOEN: Al-Rai was not charged with  
12:35:27 14 murder in -- by the Palestinian courts; right?

12:35:48 15 A. The term which is used according to the  
12:35:50 16 special Palestinian military law is that this is  
12:35:56 17 "undermining national interests."

12:36:05 18 Q. What is undermining national interests?

12:36:23 19 A. That the Palestinians -- that any action  
12:36:37 20 that might assume an Israeli response to enter the  
12:36:43 21 Palestinian areas is considered undermining national  
12:36:46 22 interests. Any shooting or thing that would lead  
12:36:50 23 to an Israeli response for -- for hitting back is  
12:36:54 24 considered undermining national interests.

12:36:57 25 Q. And he got a seven-year sentence for that?

12:37:04	1	A. Correct. That's right.
12:37:05	2	Q. As you sit here today, you don't know for sure
12:37:09	3	whether Al-Rai committed a murder or not?
12:37:26	4	A. I assure -- I -- I vehemently believe that he
12:37:31	5	has not killed.
12:37:32	6	Q. You believe it --
12:37:46	7	A. It's not believing. It's not belief. It's
12:37:49	8	confirmed emphatically. Because Israel will -- in case
12:37:55	9	there's killing, he was in their hands, they would have
12:37:59	10	brought him even if he was in a country abroad. So I
12:38:03	11	emphatically confirm that he has not killed, because
12:38:05	12	Israel would not have ever allowed that he will be free
12:38:09	13	if he did it.
12:38:28	14	Dirar Al-Sissi, who is from Gaza, he was
12:38:29	15	kidnapped from Ukraine on the assumption that he was
12:38:34	16	preparing rockets to hit from Gaza. So what about
12:38:46	17	somebody who is exactly down there under the hands
12:38:49	18	of the Israelis and he was not sentenced? The Israeli
12:38:56	19	side is emphatically convinced that he did not murder.
12:39:02	20	Q. When -- I'm sorry.
12:39:03	21	A. Okay.
12:39:04	22	Q. (Not translated.) When was -- when did the
12:39:06	23	court in Israel throw out the Al-Hindi confession? What
12:39:11	24	year?
12:39:13	25	OFFICIAL INTERPRETER BEN-NAIM: Again, please?

12:39:15 1 Q. BY MR. SCHOEN: What year did the Israeli  
12:39:17 2 court throw out the Al-Hindi confession, find that it  
12:39:21 3 was a coerced confession?

12:39:23 4 (Comments in Arabic by Check Interpreter Hazou  
12:39:37 5 and Mr. Saadi.)

12:39:58 6 THE WITNESS: During -- the period of  
12:39:59 7 detention of Shaher and Yusef was going in line with  
12:40:03 8 the beginning of the case against Jamal Hindi, who  
12:40:08 9 I cannot specify a period, but I estimate that it is  
12:40:13 10 two years.

12:40:18 11 Q. BY MR. SCHOEN: Two years after the detention  
12:40:21 12 of Al-Rai began?

12:40:24 13 MR. ROCHON: No, no. That wasn't your  
12:40:25 14 question. Your question was -- your question was:  
12:40:28 15 How long after he was -- it took for them to try  
12:40:31 16 Al-Hindi's case?

12:40:33 17 Q. BY MR. SCHOEN: My question was: During what  
12:40:33 18 time period -- when was Al-Hindi's confession thrown out?

12:40:38 19 When did the court find Al-Hindi's confession  
12:40:41 20 to be thrown out, was coerced?

12:40:50 21 A. I -- I am not the -- the lawyer defending  
12:40:56 22 Al-Hindi. But his lawyer is my friend. His name  
12:41:00 23 is Khaled Quzmar. He is the person that tackled this  
12:41:09 24 dossier. I know the proceedings, the deliberations,  
12:41:16 25 but I do not have the dates. I cannot confirm the

12:41:21 1 dates. But I know the deliberations that happened  
12:41:24 2 in this case.

12:41:25 3 Q. Is it your understanding that Al-Rai was  
12:41:28 4 released from detention in Jericho because this Al-Hindi  
12:41:34 5 confession was found to be coerced?

12:41:55 6 A. What I am sure -- what I know, that after  
12:42:04 7 they were released, there was an uproar and that there  
12:42:08 8 were certain people released. And how come he was not  
12:42:12 9 released?

12:42:16 10 (Brief exchange in Arabic between Official  
12:42:16 11 Interpreter Ben-Naim and Official Interpreter  
12:42:16 12 Aghazarian.)

12:42:22 13 THE WITNESS: The families were saying that,  
12:42:23 14 if Jamal Al-Hindi was detained by the Israelis -- was  
12:42:28 15 released and he is the -- the person that has testified  
12:42:32 16 or made a confession against our kids and -- and the  
12:42:38 17 Palestinian court sentenced them based on the confession  
12:42:42 18 of Hindi and, despite this, the PA had not released  
12:42:48 19 them. And this is why, from the beginning, when I said  
12:42:52 20 that it is politically motivated. But despite the fact  
12:43:02 21 that the PA knew they were not the murderers, but for  
12:43:05 22 political reasons, they chose to keep them incarcerated.

12:43:11 23 Q. BY MR. SCHOEN: As a PA representative, when  
12:43:14 24 do you believe the PA knew that Al-Rai didn't commit  
12:43:18 25 this murder?

12:43:31 1 A. I cannot answer.

12:43:32 2 Q. Again, do you know when Al-Rai was released

12:43:36 3 from Jericho?

12:43:46 4 A. I already answered. I don't know.

12:43:49 5 Q. Is there a way for you to find that out?

12:43:55 6 A. No. You assume things that you must be

12:44:05 7 knowing about.

12:44:10 8 After 2000 -- the invasion of -- or the

12:44:13 9 incursions of 2000, every -- all the documents of

12:44:16 10 the PA were demolished. All the security apparatus

12:44:21 11 has been demolished. Even the files that were at the

12:44:31 12 president's residence or compound have been taken. So

12:44:42 13 there is -- is no way. All the files were defaced --

12:44:44 14 were -- vanished.

12:44:46 15 Q. Did the Israelis enter Jericho and take files

12:44:49 16 from Jericho?

12:44:55 17 A. They took also people, including Sa'adat.

12:45:02 18 Q. I'm asking specifically about files, though.

12:45:09 19 A. For sure they have taken files. And they

12:45:12 20 have taken documents, papers, and everything. Even

12:45:20 21 at the level of the people paying visits to the various

12:45:24 22 PA departments were taken.

12:45:28 23 Q. And it's your testimony today that, as far

12:45:31 24 as you know, there's no court file existing regarding

12:45:46 25 the Shaher prosecution, Shaher Al-Rai?

12:45:58 1 A. Yes.

12:45:58 2 Q. And there's no document or way to find

12:46:03 3 information, as far as you know, about when Al-Rai

12:46:11 4 was released from Jericho?

12:46:22 5 A. Maybe somebody could know based on a personal

12:46:27 6 basis, you know, on a personal -- but not as a document.

12:46:32 7 Q. What, if anything, did you do to

12:46:33 8 investigate -- to prepare today on these questions?

12:46:55 9 A. I sat with Chas and Mark, and we exchanged

12:47:00 10 ideas. I asked at the military prosecution about their

12:47:06 11 dossiers. And the response was that they do not have

12:47:13 12 any record or document related to this case. And this

12:47:18 13 is the party that has sentenced them.

12:47:25 14 And since the party that has sentenced them

12:47:28 15 do not have any documents, so it means that no other

12:47:31 16 party does have documents related to this. This is

12:47:36 17 all what happened in preparing for this session.

12:47:40 18 Q. And is it your testimony in this well-known

12:47:43 19 case, a case that made a lot of noise, that you didn't

12:47:51 20 have any way to find out when the Al-Rai -- Shaher

12:47:56 21 Al-Rai was released?

12:48:05 22 A. Yes. Correct.

12:48:06 23 Q. Or the circumstances of his release?

12:48:12 24 A. Neither their release circumstances.

12:48:16 25 MR. SCHOEN: I didn't hear you.

12:48:17 1 OFFICIAL INTERPRETER AGHAZARIAN: "Neither  
12:48:18 2 the circumstances of release."

12:48:19 3 Q. BY MR. SCHOEN: Do you know where Shaher --  
12:48:21 4 Shaher Al-Rai is today?

12:48:29 5 A. I assume in his normal place of residence.

12:48:33 6 Q. Did you make any attempt to contact him to  
12:48:35 7 find out the information?

12:48:40 8 A. No.

12:48:41 9 Q. (Not translated.) Did you understand that  
12:48:42 10 you had a duty to investigate to be able to answer the  
12:48:45 11 questions that you're designated for?

12:48:48 12 OFFICIAL INTERPRETER BEN-NAIM: Again? Sorry.

12:48:50 13 Q. BY MR. SCHOEN: Did you understand that you  
12:48:51 14 had a duty to investigate to be able to answer the  
12:48:56 15 questions fully that you were designated for?

12:48:58 16 (Pending question partially translated.)

12:48:58 17 OFFICIAL INTERPRETER BEN-NAIM: I'm sorry.  
12:49:09 18 I'm sorry. I lost the thing.

12:49:11 19 (Brief exchange in Arabic between Official  
12:49:11 20 Interpreter Aghazarian and Official Interpreter  
12:49:11 21 Ben-Naim.)

12:49:13 22 MR. McALEER: (Not translated.) Objection  
12:49:14 23 to form to the extent it calls for any sort of legal  
12:49:18 24 conclusion.

12:49:18 25 (Comment in Arabic by the witness.)

12:49:19 1 MR. SCHOEN: He didn't translate. Translate  
12:49:21 2 what Chas said.

12:49:23 3 OFFICIAL INTERPRETER BEN-NAIM: Oh, sorry.  
12:49:23 4 Chas?

12:49:24 5 MR. McALEER: Object to the form of the  
12:49:24 6 question to the extent it calls for any sort of legal  
12:49:29 7 conclusion.

12:49:39 8 THE WITNESS: Could you repeat the -- the  
12:49:41 9 question?

12:49:42 10 Q. BY MR. SCHOEN: Yes.  
12:49:43 11 Did you understand, in preparing for this  
12:49:45 12 deposition to testify today, that you had -- that  
12:49:53 13 you had a duty to investigate all of the facts related  
12:50:01 14 to the subjects you were going to testify on?  
12:50:21 15 A. Within the level of my knowledge and the  
12:50:25 16 information that I have and the available requirements  
12:50:32 17 with us.  
12:50:34 18 Q. You understand that one thing you were to  
12:50:35 19 testify about are the full details of -- among the  
12:50:49 20 imprisonment and release by the PA of Al-Rai?  
12:51:05 21 A. Yes. But I clearly stated that we do not  
12:51:07 22 have any data or records with the PA. If I do not have,  
12:51:17 23 you know, all these files, then how can -- shall I go  
12:51:20 24 and invent it or create it?  
12:51:22 25 Q. It didn't occur to you to speak to Al-Rai

12:51:25 1 to ask him when he was released from prison?

12:51:34 2 A. That's not my job. Why should I talk to  
12:51:36 3 Al-Rai?

12:51:37 4 Q. So you don't understand that to be included  
12:51:40 5 with your duty to investigate?

12:51:41 6 MR. McALEER: Same objection.

12:51:54 7 THE WITNESS: Definitely it's not part of  
12:51:56 8 my duty.

12:51:56 9 Q. BY MR. SCHOEN: And you had been Al-Rai's  
12:52:00 10 lawyer; right?

12:52:03 11 A. Yes, at the given period of time.

12:52:05 12 Q. What period of time?

12:52:08 13 A. The period -- the period when he was in the  
12:52:13 14 Jericho prison that I have elaborately talked about.

12:52:17 15 Q. Specifically for the offense that we're  
12:52:19 16 talking about now?

12:52:25 17 MR. McALEER: Objection. Form. It's vague.

12:52:31 18 THE WITNESS: Correct.

12:52:32 19 Q. BY MR. SCHOEN: Did you speak to any of the  
12:52:34 20 people who were working at the jail in Jericho?

12:52:40 21 A. No.

12:52:42 22 Q. Did you take any other steps to investigate  
12:52:45 23 when Al-Rai was released from jail in Jericho?

12:53:07 24 A. I am clear that the party which is responsible  
12:53:11 25 for all the military prisons is the Palestinian military

12:53:17 1 prosecution. It is the Palestinian military prosecution  
12:53:24 2 which is supervising the whole affair, from sentencing  
12:53:28 3 to imprisonment, and all related matters. And since  
12:53:34 4 this is the party that is specialized in these matters,  
12:53:41 5 I consulted with them in a -- in an official capacity.  
12:53:44 6 And their answer was that everything has been  
12:53:51 7 demolished. We do not have anything left. So there  
12:54:00 8 is no need for me to go around in the street and ask:  
12:54:02 9 When -- when was Shaher released?

12:54:12 10 And even if I was his lawyer, the day that  
12:54:16 11 the sentence was issued, my role is finished. And so  
12:54:18 12 I step out. They can through -- through the Israelis,  
12:54:30 13 they can bring him and tell him when he was released.  
12:54:34 14 And he was later on detained by the Israelis after  
12:54:37 15 he was released from Jericho.

12:54:39 16 Q. How did you know that?

12:54:47 17 A. It's in the media, all over. This is not  
12:54:52 18 a difficult issue. It's -- it's out there. I said  
12:54:57 19 it raised an uproar in the media.

12:55:00 20 Q. But their release from jail in Jericho didn't  
12:55:03 21 raise an uproar? That wasn't in the media?

12:55:14 22 A. I don't remember when.

12:55:17 23 Q. But you know when he was arrested by the  
12:55:20 24 Israelis because it was in the media, you just  
12:55:23 25 testified?

12:55:30 1 MR. McALEER: Objection. Mis --

12:55:34 2 THE WITNESS: No. No. Don't let me tell

12:55:37 3 something I haven't said. Don't put words in my mouth

12:55:43 4 and don't veer the discussion from its track.

12:55:48 5 I know the date of his detention because

12:55:51 6 I was his lawyer. This is your job to know when he

12:55:58 7 was detained, when he was released. That's your side

12:56:02 8 of the responsibility.

12:56:03 9 Q. BY MR. SCHOEN: Do you understand that

12:56:04 10 your responsibility, as a PNA representative today,

12:56:08 11 is to testify, as the designated witness, about the

12:56:26 12 full details of Shaher Al-Rai's arrest, indictment,

12:56:40 13 trial, sentencing, imprisonment, and release by the PA?

12:56:53 14 Do you understand that that's your job today?

12:57:00 15 MR. McALEER: Objection. Argumentative and

12:57:01 16 for the reason previously stated to the prior iteration

12:57:06 17 of that question. And asked and answered.

12:57:20 18 THE WITNESS: I understand it is my duty

12:57:21 19 within the information and the data that are available

12:57:26 20 under my hands.

12:57:28 21 In all courts, tribunals in the world,

12:57:32 22 when a witness is summoned, he answers within the

12:57:38 23 available -- requirements available with him, whether

12:57:45 24 it is a bank -- bank clerk or representing a company

12:57:49 25 or representing an authority.

12:57:58 1 I -- I -- when I, in law, in my practice,

12:58:00 2 I summon a bank employee and I ask him for certain

12:58:06 3 information, and he could say: I simply don't have

12:58:09 4 it under my fingertips. Although I tell him I want

12:58:15 5 all this relevant information, he says: I don't have

12:58:18 6 it under my fingertips. If he doesn't have it, then

12:58:23 7 the issue is over.

12:58:33 8 You're holding me accountable. In all the

12:58:37 9 world -- we're speaking of about 19 years here -- there

12:58:48 10 isn't a single institution that keeps its records for

12:58:52 11 19 years. This is under normal circumstances, let alone

12:58:59 12 a party that was subject to comprehensive demolition,

12:59:04 13 and after that, to insinuate that we are failing or we

12:59:14 14 are not fulfilling our obligations -- our obligations.

12:59:19 15 When you ask why these documents are not

12:59:24 16 available, it's the occupation that has demolished them.

12:59:32 17 But to insinuate that we are not responsive -- I have

12:59:37 18 answered, and I have given you all what [sic] I have.

12:59:39 19 And most of the issues mentioned in the paper has been

12:59:46 20 answered. If there is something which is not available,

12:59:51 21 that's not the end of the world. That's the fact on

12:59:54 22 the ground.

12:59:55 23 Q. BY MR. SCHOEN: Do you understand that I

12:59:56 24 didn't select you to be the witness today?

13:00:04 25 A. I do know that.

13:00:05 1 Q. And that it doesn't matter to me what you  
13:00:08 2 have available to you.  
13:00:09 3 Do you understand that?  
13:00:17 4 A. Once again, I reiterate, I am not speaking  
13:00:23 5 in my personal capacity that I don't have it available.  
13:00:27 6 I'm speaking as a PA that does not have availability  
13:00:32 7 of the information.  
13:00:39 8 I went to the party that is specialized  
13:00:42 9 and is supposed to have the files, and this has been  
13:00:46 10 demolished. Whether it is me or it is Mr. President,  
13:00:56 11 the answer will be the same, because we do not have  
13:01:01 12 any documents, regardless of who is sitting on this  
13:01:07 13 witness chair.  
13:01:08 14 Q. Is it your testimony that no one with the  
13:01:11 15 PA could -- could engage in a reasonable investigation  
13:01:22 16 to find out when Shaher Al-Rai was released from prison  
13:01:29 17 in Jericho?  
13:01:39 18 A. What do you mean by -- by "engaging in an  
13:01:42 19 interrogation"?  
13:01:43 20 MR. SCHOEN: "Investigation."  
13:01:46 21 OFFICIAL INTERPRETER AGHAZARIAN:  
13:01:45 22 "Investigation."  
13:01:46 23 Q. BY MR. SCHOEN: Any reasonable investigation.  
13:01:48 24 Is it your -- any reasonable investigation.  
13:01:52 25 Is it your testimony that there is some

13:01:56 1 obstacle that makes it impossible for a representative  
 13:02:02 2 of the PNA to find out --  
 13:02:09 3 (Brief exchange in Arabic between Official  
 13:02:09 4 Interpreter Ben-Naim and Check Interpreter Hazou.)  
 13:02:12 5 Q. BY MR. SCHOEN: -- to find out when Al-Rai  
 13:02:15 6 was released from the prison in Jericho?  
 13:02:38 7 A. I am sorry that I have been responding to  
 13:02:41 8 that question repeatedly.  
 13:02:47 9 Just as there is focus on the questions,  
 13:02:49 10 we should also focus on the answers in order to --  
 13:02:53 11 to save time. I have clearly stated that, as far as  
 13:03:05 12 papers are concerned, documents, there is nothing with  
 13:03:10 13 the PA. And I said that maybe there is somebody out  
 13:03:26 14 there, a soldier, an official or just a person that  
 13:03:30 15 remembers the date in a personal capacity.  
 13:03:42 16 But I'm not in a position to put a TV ad or  
 13:03:44 17 make a circular and ask the people: Anyone who knows  
 13:03:49 18 something about Shaher Al-Rai, come and report to us.  
 13:03:55 19 I work within the available means and -- and -- under  
 13:03:58 20 my disposition in the institution. That's how I --  
 13:04:01 21 I deal.  
 13:04:02 22 Q. Is it your testimony that the only way to  
 13:04:05 23 find out when -- when Rai -- Al-Rai was released is  
 13:04:17 24 from documents?  
 13:04:26 25 MR. McALEER: Objection. Objection to the

13:04:38 1 extent -- to the extent counsel is trying to, by his  
13:04:45 2 question, characterize the witness' prior testimony.  
13:04:49 3 The question misstates the testimony.

13:04:51 4 And to the extent it does not try to  
13:04:55 5 characterize the prior testimony, this area has been  
13:04:59 6 asked and answered. And berating the witness further  
13:05:02 7 on this I don't think is productive, Counsel.

13:05:06 8 MR. SCHOEN: Please don't use the word  
13:05:06 9 "berating." I'm not berating. I'm engaging in  
13:05:08 10 discussion with the witness.

13:05:09 11 MR. McALEER: You are -- you are visibly  
13:05:14 12 enervated, raising your voice level higher than it  
13:05:19 13 was before. And just a couple of moments ago, you  
13:05:23 14 were thrusting your finger into the table. So --

13:05:27 15 MR. SCHOEN: Don't -- don't make up a record.  
13:05:27 16 I wasn't thrusting any finger into any table.

13:05:31 17 MR. McALEER: I'm not making it up. I saw it.  
13:05:40 18 THE WITNESS: I have answered the question.

13:05:41 19 Q. BY MR. SCHOEN: Okay. Is there any obstacle  
13:05:43 20 you're aware of that would prevent a PA or PNA  
13:05:46 21 representative from speaking to Mr. Al-Rai to try  
13:06:01 22 to find out when he was released from Jericho?

13:06:10 23 A. Yes. Correct.

13:06:12 24 Q. There is an obstacle?

13:06:16 25 A. Correct.

13:06:17 1 Q. What's that obstacle?

13:06:20 2 A. The obstacle is that Al-Rai will not cooperate

13:06:23 3 with us.

13:06:24 4 Q. Did you ask him?

13:06:27 5 A. Without asking him, he will not cooperate.

13:06:33 6 Q. Why do you say that?

13:06:38 7 A. Because after -- because after he left --

13:06:43 8 because he launched a campaign against the Authority.

13:06:46 9 And he said this is the worse period. And he -- he

13:06:51 10 sort of vehemently attacked the PA.

13:06:59 11 And he said even mentioning this issue will

13:07:02 12 cause him a deep psychological strain. And he spoke

13:07:11 13 about this, how bitterly he was injured from the --

13:07:14 14 on the radio and TV. The people that have reported

13:07:28 15 for the CNN should have also made a follow-up to see

13:07:32 16 his declarations of vehement attack on the PA after

13:07:36 17 he was released from Jericho.

13:07:37 18 Q. You just saw the CNN video; correct?

13:07:45 19 A. Correct.

13:07:45 20 MR. SCHOEN: We'll mark the CD as Exhibit A

13:07:49 21 for today's deposition.

13:07:54 22 (J. Amawi Exhibit A identified.)

13:07:54 23 Q. BY MR. SCHOEN: Are you aware, from watching

13:07:56 24 that video, that the PA was able to produce a witness,

13:08:06 25 a representative of the PA who they -- they represent

13:08:18 1 to be Brigadier General Younis Al-Assi?

13:08:23 2 Do you know that person?

13:08:30 3 A. It's a known name.

13:08:32 4 Q. Uh-huh.

13:08:33 5 They were able to -- CNN interviewed him,

13:08:36 6 and he was able to tell them about the circumstances

13:08:47 7 of Al-Rai's detention and whether he had been released

13:08:52 8 from jail.

13:08:58 9 Are you aware of that now from watching the

13:09:01 10 video?

13:09:03 11 MR. McALEER: Objection. Assumes facts and

13:09:05 12 lack of foundation.

13:09:08 13 THE WITNESS: I have seen the pictures. I

13:09:11 14 have not heard exactly what was said.

13:09:14 15 Q. BY MR. SCHOEN: Would you like to hear it

13:09:15 16 again?

13:09:18 17 A. It will not change anything.

13:09:20 18 Q. It won't change anything to you?

13:09:34 19 A. For me, this is a recording. I'm not going

13:09:37 20 to deny or approve anything. It's already on record.

13:09:43 21 I don't know when this interview was conducted. Maybe

13:09:50 22 somebody who has lived the scene could respond to it,

13:09:54 23 you know, directly, but not -- without papers. They

13:09:57 24 would just remember it. But the same person, if you

13:10:02 25 come and refer to him after two decades, unfortunately

13:10:08 1 will not be able to answer you without having some  
13:10:12 2 written material.

13:10:14 3 And I reiterate once more: If there weren't  
13:10:22 4 special elements in this particular dossier, without  
13:10:27 5 having written material, I could not have handled  
13:10:31 6 the matter or the witness. And I witness within the  
13:10:39 7 information which is available with the PA.

13:10:43 8 If the party that has sentenced does not have  
13:10:46 9 any written material, it means that there is no other  
13:10:50 10 party that can -- that can have the information on this.  
13:11:02 11 There might be people that remember in a personal way.  
13:11:05 12 My job is not just to speculate. But somebody -- some  
13:11:12 13 warden might remember something here and there. But  
13:11:14 14 I cannot speculate on this matter.

13:11:18 15 Q. Do you understand no one's asking you to  
13:11:20 16 speculate?

13:11:20 17 (Comment in Arabic by the witness.)

13:11:22 18 THE VIDEOGRAPHER: We have to change the tape.

13:11:23 19 MR. SCHOEN: Oh, okay. The tape is out?

13:11:23 20 THE VIDEOGRAPHER: No, we have to change  
13:11:23 21 the tape now.

13:11:23 22 MR. SCHOEN: We need to get his answer to  
13:11:23 23 the question.

13:11:41 24 THE WITNESS: I answered. So what do you  
13:11:42 25 want from me?

13:11:44 1 MR. SCHOEN: No, what was the answer? You  
13:11:44 2 didn't trans -- he said "okay" or something like that.

13:11:48 3 THE WITNESS: What is it?

13:11:49 4 Q. BY MR. SCHOEN: The question was: Do you  
13:11:50 5 understand I'm not asking you to speculate?

13:12:06 6 A. The way your questions -- you want me to --  
13:12:09 7 to be a fortune teller or speculate for you. You --  
13:12:18 8 you insist that you must have an answer. I don't have  
13:12:21 9 an answer, I tell you. And you say: You must have  
13:12:24 10 an answer.

13:12:25 11 MR. SCHOEN: The tape is out now.

13:12:28 12 THE VIDEOGRAPHER: Going off the record at  
13:12:29 13 1:12.

13:12:31 14 (Recess from 1:12 p.m. to 1:29 p.m.)

13:30:11 15 THE VIDEOGRAPHER: Going back on record at  
13:30:12 16 1:29.

13:30:19 17 Q. BY MR. SCHOEN: Mr. Amawi, do you know whether  
13:30:23 18 Shaher -- Shaher Al-Rai was ever employed by the PA at  
13:30:37 19 anytime between 1994 and today?

13:30:58 20 A. As far as I'm concerned, according to my  
13:31:00 21 knowledge, the period when I was his lawyer, '94, '95,  
13:31:05 22 he wasn't employed, because the PA had just started.  
13:31:14 23 And as his lawyer, he would have told me that he is  
13:31:19 24 employed by the PA. And I can say that there is no  
13:31:34 25 record whatsoever that he was, on any given day, an

13:31:38 1 employee of the PA. He never was employed by the PA.

13:31:47 2 Q. Do you know whether he was ever paid any money  
13:31:50 3 by the PA? If you know.

13:32:00 4 A. What do you mean by "funds"? Specify your  
13:32:06 5 question clearly.

13:32:08 6 Q. I'm sorry. I don't know how to ask it any  
13:32:11 7 other way.

13:32:12 8 I'm asking whether you know whether he was  
13:32:14 9 paid any money ever by the PA?

13:32:28 10 A. For sure, in the period when he was detained  
13:32:31 11 by the Israelis, he had access to -- to funds, like any  
13:32:35 12 other person.

13:32:36 13 Q. (Not translated.) Would that have been money  
13:32:39 14 paid to him or to his family?

13:32:41 15 A. (In English.) The family.

13:32:42 16 (Translated.) To the family.

13:32:43 17 Q. So as to him, Mr. Al-Rai himself, do you know  
13:32:47 18 whether he was ever paid any money by the PA?

13:32:59 19 A. I don't think, according to the information  
13:33:00 20 I have, that he has received funds on a personal basis.  
13:33:12 21 There is nothing that indicates that he has received  
13:33:16 22 funds in a personal way, but rather the family had  
13:33:19 23 got it.

13:33:21 24 Q. What, if any, investigation did you do to  
13:33:24 25 determine whether Al-Rai ever worked for the PA or

13:33:27 1 whether he ever received any money himself from the PA?

13:33:30 2 (Pending question partially translated.)

13:33:30 3 OFFICIAL INTERPRETER BEN-NAIM: That

13:33:38 4 Mr. Al-Rai -- what happened to him?

13:33:40 5 MR. SCHOEN: "Ever was employed by the PA."

13:33:42 6 (Remainder of pending question translated.)

13:33:48 7 THE WITNESS: Yes, we did -- we did

13:33:54 8 investigate. I've already answered. We did the

13:34:00 9 investigation, but we did not find any records

13:34:04 10 whatsoever.

13:34:04 11 Q. BY MR. SCHOEN: My question is -- which you

13:34:06 12 have not already answered -- what steps did you take

13:34:13 13 to investigate these things?

13:34:26 14 A. The issue whether he was -- whether employed

13:34:34 15 or not is a very easy matter. You have the list of

13:34:39 16 employees with their ID numbers. You just press the

13:34:43 17 computer. If he's there, he's there, or he's not there.

13:34:48 18 If his name features out, then he is employed. If not,

13:34:54 19 then he's not, as simple as that. We checked this, and

13:34:59 20 it turned out that he is not employed.

13:35:01 21 Q. From what period of time forward would the

13:35:04 22 computer records reflect these things?

13:35:18 23 A. From the moment that the PA came until now.

13:35:24 24 Q. But they don't have any computer records

13:35:26 25 that would show prisoner payments from the mo -- from --

13:35:41 1 sorry -- from the moment the PA came into existence  
13:35:46 2 forward?

13:35:50 3 A. Who said that?

13:35:51 4 Q. I'm asking: For the employment records --

13:36:04 5 A. I clearly stated that, you know, we have  
13:36:08 6 the information on CD and we took it out from Gaza  
13:36:11 7 and that we keep track of these matters. The Ministry  
13:36:18 8 of Detainee Affairs and Ex-detainees, since it was  
13:36:24 9 conceived in 1998, the computer payroll is clear.

13:36:36 10 We cannot consider that these are allowances given  
13:36:40 11 to the detainee, but rather to the family. As such,  
13:36:50 12 I cannot say that it was handed over to the prisoner  
13:36:54 13 or the detainee. Anyway, he is incarcerated.

13:36:59 14 Q. The Ministry of Social Affairs, I believe  
13:37:01 15 you testified to -- but correct me if I'm wrong --  
13:37:10 16 pays -- give -- makes payments to the families of  
13:37:15 17 detainees in -- in Palestinian detention; is that  
13:37:27 18 correct?

13:37:37 19 A. The Ministry of Social Affairs keeps track  
13:37:41 20 of people who do not have sources of income or have low  
13:37:47 21 income levels. It is similar to the National Insurance  
13:37:54 22 for people that cannot make both ends meet. For sure  
13:38:02 23 its role it is not to pursue the cases of detainees in  
13:38:08 24 Palestinian prisons. It deal -- deals with people who  
13:38:20 25 have dire needs and who need assistance. That's the

13:38:22 1 principle.

13:38:31 2 So it might be someone detained by the PA  
13:38:33 3 and does not apply for assistance, so he will not have  
13:38:37 4 access to these funds. It's the same with our case.  
13:38:45 5 There are a number of detainees who did not apply --  
13:38:49 6 who did not address themselves to the ministry. And  
13:38:52 7 so these people did not have any financial assistance.

13:38:56 8 Q. Do you know whether Al-Rai's family applied  
13:38:59 9 for or received payments during the time period he  
13:39:10 10 was detained in Jericho, payments from the PNA?

13:39:44 11 A. I don't have -- I don't have concrete  
13:39:46 12 information on this. But I assume no, because the  
13:39:50 13 PA was still nascent in its beginnings and it was  
13:39:57 14 only in Jericho and in Gaza. And later on, it started  
13:40:00 15 to put the house in order, and it became more systematic  
13:40:04 16 with the establishment of the Ministry of Detainees and  
13:40:07 17 Ex-detainees in 1998.

13:40:17 18 Q. What time period was that when they got  
13:40:20 19 themselves in order?

13:40:41 20 A. Things started to get organized after 1998.  
13:40:43 21 But the moment -- by the time they were putting the  
13:40:46 22 house in order, the Second Intifada erupted, and it  
13:40:52 23 washed away everything -- washed away. And after 2007,  
13:40:59 24 we started all over again to put matters in -- in order.

13:41:04 25 Q. But not quite everything. It didn't wash away

13:41:08 1 quite everything; right?

13:41:09 2 Because you told me, when it comes to checking  
13:41:12 3 about payments for detainees in Israeli detention, you  
13:41:24 4 have that on a CD. And when it comes to employment  
13:41:30 5 records from 1994 or from the start of the PNA, you  
13:41:42 6 just have to press a button to get the information.

13:41:52 7 A. Once again, I have said files and written  
13:41:55 8 material were all demolished.

13:42:05 9 About the CD that I have referred to, it has  
13:42:08 10 to do with the financial issues. So it doesn't have any  
13:42:14 11 comprehensive information, only money aspects -- money  
13:42:21 12 aspects. And so -- so this CD that includes payments  
13:42:30 13 for -- for employees and as well as for the detainees,  
13:42:35 14 this has been available. And through it, we would --  
13:42:44 15 we would be able to verify whether the funds were paid  
13:42:49 16 or not.

13:42:51 17 Q. When you represented Al-Rai, you were acting  
13:42:56 18 as a private lawyer; right?

13:43:01 19 A. Correct.

13:43:02 20 Q. Al-Rai's brother had another lawyer?

13:43:11 21 A. His brother?

13:43:12 22 Q. Sorry. I'm sorry.

13:43:12 23 Yusef Al-Rai had another lawyer?

13:43:17 24 A. Me and my partner, we were the lawyers for  
13:43:20 25 both of them.

13:43:21 1 Q. Uh-huh. And do you have reason to believe  
13:43:23 2 that either Al-Rai is angry with you or your partner?  
13:43:33 3 (Pending question partially translated.)  
13:43:33 4 OFFICIAL INTERPRETER BEN-NAIM: The other one?  
13:43:27 5 MR. SCHOEN: "Or his partner."  
13:43:34 6 (Remainder of pending question translated.)  
13:43:34 7 THE WITNESS: I don't think so. Why should  
13:43:40 8 they be cross with -- unless he -- if he assumed that  
13:43:48 9 I should have made it to the military court at 3:30  
13:43:54 10 that morning.  
13:43:54 11 Q. BY MR. SCHOEN: But you have no reason to  
13:43:56 12 believe he's angry with you?  
13:44:01 13 A. No. He is convinced that he passed through  
13:44:08 14 an unfair and an unjust tribunal. And he knew that  
13:44:18 15 whether there is a lawyer or not -- if a lawyer was  
13:44:21 16 there, this would have been a farce.  
13:44:24 17 Q. The PA prosecution would have been a farce?  
13:44:28 18 OFFICIAL INTERPRETER AGHAZARIAN: No.  
13:44:29 19 THE WITNESS: If the military was there,  
13:44:31 20 it would have been like compulse -- secondary actor.  
13:44:36 21 It would be like a -- you know, just for the facade.  
13:44:41 22 (Comment in Arabic by the witness.)  
13:44:44 23 CHECK INTERPRETER HAZOU: Right. Yes, yes.  
13:44:48 24 Q. BY MR. SCHOEN: Let's talk about  
13:44:49 25 unincorporated associations.

13:44:51 1 (Pending question partially translated.)

13:45:01 2 OFFICIAL INTERPRETER AGHAZARIAN: What's the

13:45:03 3 word?

13:45:03 4 OFFICIAL INTERPRETER BEN-NAIM:

13:45:03 5 "Unincorporated" --

13:45:03 6 MR. SCHOEN: It's two words. "Unincorporated"

13:45:06 7 associations."

13:45:07 8 CHECK INTERPRETER HAZOU: "Unincorporated"?

13:45:07 9 MR. SCHOEN: Uh-huh.

13:45:12 10 (Brief exchange in Arabic among Official

13:45:12 11 Interpreter Ben-Naim, Official Interpreter

13:45:12 12 Aghazarian, Check Interpreter Hazou, and the

13:45:12 13 witness.)

13:45:13 14 OFFICIAL INTERPRETER BEN-NAIM: We're

13:45:22 15 discussing --

13:45:23 16 MR. SCHOEN: But someone has to translate,

13:45:24 17 when he says something, what he said. So what did

13:45:28 18 he say?

13:45:29 19 OFFICIAL INTERPRETER BEN-NAIM: He said:

13:45:29 20 "What is it?" Okay.

13:45:33 21 MR. HALLER: We have an Arabic-speaking

13:45:35 22 lawyer. Maybe you want him to help.

13:45:35 23 OFFICIAL INTERPRETER BEN-NAIM:

13:45:35 24 "Uncooperated." [sic]

13:45:35 25 OFFICIAL INTERPRETER AGHAZARIAN:

13:45:35 1 "Unincorporated."

13:45:37 2 CHECK INTERPRETER HAZOU: I'm not sure what

13:45:38 3 it means in English.

13:45:41 4 MR. HALLER: Can you ask Saadi, since it's

13:45:43 5 a -- a legal term?

13:45:44 6 CHECK INTERPRETER HAZOU: "Unincorporated

13:45:46 7 associations."

13:45:49 8 (Brief exchange in Hebrew between Mr. Haller

13:45:49 9 and Mr. Saadi.)

13:45:52 10 (Comment in Arabic by Mr. Saadi.)

13:45:54 11 (Comment in Hebrew by Mr. Haller.)

13:45:55 12 OFFICIAL INTERPRETER BEN-NAIM: I -- I don't

13:46:00 13 hear a Hebrew.

13:46:01 14 MR. SCHOEN: In any event, too many different

13:46:01 15 discussions going on.

13:46:02 16 Q. BY MR. SCHOEN: Are you familiar with the term

13:46:03 17 "unincorporated association"?

13:46:13 18 A. What is it? I don't know.

13:46:15 19 Q. In preparing to testify today, did anyone

13:46:21 20 raise that term with you, "unincorporated association"?

13:46:24 21 (Comment in Arabic by the witness.)

13:46:40 22 (Comment in Arabic by Official Interpreter

13:46:40 23 Aghazarian.)

13:46:40 24 OFFICIAL INTERPRETER BEN-NAIM: My colleague

13:46:41 25 here is suggesting a terminology.

13:46:44 1 MR. SCHOEN: One second. He just said  
13:46:45 2 something. So you have to -- when he says something --  
13:46:47 3 OFFICIAL INTERPRETER AGHAZARIAN: "I haven't  
13:46:48 4 heard this term. This is the first time I hear it."  
13:46:51 5 Q. BY MR. SCHOEN: Okay. Are you aware that  
13:46:56 6 you're the designee to testify today about facts related  
13:47:00 7 to the PNA's status as a so-called unincorporated  
13:47:06 8 association?  
13:47:27 9 A. I am coming in order to -- we might have a  
13:47:37 10 divergence in the term. It's not a big deal about what  
13:47:42 11 the term "unincorporated" --  
13:47:45 12 Q. "Association."  
13:47:46 13 A. -- "associations" mean. That's not the issue.  
13:47:57 14 Q. Okay. Well, what else did you talk to your  
13:48:02 15 lawyer -- what else do you understand you're supposed  
13:48:05 16 to be a designee for today, if anything?  
13:48:18 17 (Comment in Arabic by the witness.)  
13:48:20 18 MR. SCHOEN: What -- he just said something.  
13:48:21 19 OFFICIAL INTERPRETER AGHAZARIAN: "I don't  
13:48:21 20 get the question."  
13:48:21 21 MR. SCHOEN: What?  
13:48:22 22 OFFICIAL INTERPRETER AGHAZARIAN: "I don't  
13:48:22 23 get the question."  
13:48:23 24 Q. BY MR. SCHOEN: My question is: Besides this  
13:48:26 25 Al-Rai business we've been talking about, what is your

13:48:34 1 understanding of the subject or subjects that you are  
13:48:44 2 the PNA designee -- that you were selected to speak  
13:48:48 3 about on -- on behalf of the PNA today?

13:49:04 4 A. I still don't understand the question.

13:49:07 5 MR. McALEER: Counsel, I'll be happy to --

13:49:11 6 THE WITNESS: Ask me a clear-cut question  
13:49:13 7 so that I can -- I --

13:49:16 8 CHECK INTERPRETER HAZOU: Can I --

13:49:17 9 MR. McALEER: Can -- can --

13:49:17 10 CHECK INTERPRETER HAZOU: -- say it in Arabic?

13:49:18 11 MR. McALEER: No.

13:49:18 12 Counsel, I -- I don't want to be accused  
13:49:22 13 of coaching the witness.

13:49:23 14 MR. SCHOEN: Then don't say anything  
13:49:25 15 substantively.

13:49:28 16 MR. McALEER: My -- my -- my point to you  
13:49:30 17 will be: I'll be happy to try to fit this into a  
13:49:33 18 context that might enable you to question the witness  
13:49:36 19 and allow the witness to understand what it is you're  
13:49:41 20 trying to address here concerning his designation.

13:49:49 21 Q. BY MR. SCHOEN: Mr. Amawi, you were asked  
13:49:50 22 to appear here today on behalf of the PA; correct?

13:50:02 23 A. Correct.

13:50:03 24 Q. And you were told that you would be asked  
13:50:05 25 questions by a lawyer for the plaintiffs?

13:50:13 1 A. Correct.

13:50:14 2 Q. And you were told that you would be asked

13:50:16 3 questions by the lawyer for the plaintiffs about certain

13:50:20 4 subjects?

13:50:30 5 A. In general, yes.

13:50:32 6 Q. You were told that you would have to prepare

13:50:35 7 to testify about certain specific subjects; correct?

13:50:45 8 A. Yes.

13:50:47 9 Q. What subjects were you told to prepare to

13:50:52 10 testify about today?

13:51:02 11 A. Shaher Al-Rai, essentially, and the issue --

13:51:08 12 and the legal status of the PA.

13:51:10 13 Q. Aah. So on the question of the legal status

13:51:13 14 of the PA, what were you asked to prepare about?

13:51:33 15 A. I was told that -- a set of questions, and

13:51:37 16 I have sufficient information to be able to testify.

13:51:41 17 Q. All right. When was the PA organized? When

13:51:44 18 did it come into being?

13:51:49 19 A. It was established based on the Oslo Accords

13:51:58 20 at the end of 1993. And it -- and it came -- it was --

13:52:03 21 it was established in 1994, starting from Gaza and

13:52:08 22 Jericho.

13:52:08 23 Q. (Not translated.) Was the creation of the

13:52:14 24 PA -- I'm going to use the term "PNA" the same as "PA."

13:52:22 25 A. (In English.) Okay.

13:52:24 1 (Pending question translated.)

13:52:24 2 THE WITNESS: "PA."

13:52:24 3 OFFICIAL INTERPRETER BEN-NAIM: The question

13:52:29 4 was?

13:52:30 5 Q. BY MR. SCHOEN: Was the creation of the PA

13:52:36 6 the subject of negotiation between the PLO and other

13:52:47 7 parties?

13:52:51 8 A. Why other parties?

13:52:53 9 With the Israeli side.

13:52:54 10 Q. Just between the PLO and the Israelis?

13:52:58 11 A. Of course. Correct.

13:53:02 12 Q. That's how the PA was created?

13:53:17 13 A. It was established according to the

13:53:19 14 Declaration of Principles emanating from the Oslo

13:53:24 15 Accords. These are no secrets. It's public

13:53:27 16 information.

13:53:28 17 Q. So the Declaration of Principles created

13:53:31 18 the PA?

13:53:35 19 A. Yes.

13:53:35 20 Q. And what do you understand to be the Palestine

13:53:43 21 council -- the Palestinian Council? I'm sorry.

13:53:55 22 A. The Palestinian Council, according to my

13:53:57 23 understanding from the Oslo Accords, is the council

13:54:04 24 which -- which was supposed to carry the name of the

13:54:07 25 Executive Council. Based on this, it would have had

13:54:15 1 to assume the responsibility of running the PA as a  
13:54:18 2 whole.

13:54:21 3 Because according to the Accords, there --  
13:54:31 4 there was no government as such, but there were, like,  
13:54:35 5 ministers which were dubbed the Executive Council.  
13:54:40 6 And in the Oslo Accords, you do not have a cabinet and  
13:54:51 7 ministers and so on. It's not stipulated in the Oslo  
13:54:58 8 Accords. And we assume that -- that this council should  
13:55:02 9 have had legislative authorities in coordination with  
13:55:10 10 the Israeli side.

13:55:13 11 At the time, Arafat composed the government  
13:55:19 12 and transformed it effectively into a legislative  
13:55:25 13 council contrary to the Accords. But this was  
13:55:31 14 something that satisfied peace. The Israelis, they  
13:55:34 15 liked it. They welcomed it. Because if the -- if  
13:55:49 16 the Palestinian Council assumed the job, there would  
13:55:52 17 have been lots of hurdles and they would have put  
13:55:56 18 obstacles in implementing other steps. It was much  
13:56:00 19 easier to have a cabinet to control.

13:56:09 20 So, effectively, what Arafat done: You do  
13:56:12 21 your legislation, but I have a government to run the  
13:56:15 22 thing. And this was welcomed by the Israelis. And in  
13:56:30 23 the case when you had the confrontations of having the  
13:56:34 24 tunnel in 1996 in the Old City -- and in order to sort  
13:56:49 25 of isolate Arafat, they said: This is not the case.

13:56:53 1 Get us the Executive Committee, which means we want  
13:56:58 2 to apply the Accords as is.

13:57:05 3 And the first person who was opposed to this  
13:57:09 4 was the current Prime Minister Netanyahu. Because he  
13:57:17 5 knows that the actual situation is much easier to deal  
13:57:21 6 with than the original format that emanated before.

13:57:29 7 From all what we are talking, we are speaking  
13:57:31 8 about an Executive Council to run the -- the needs of  
13:57:36 9 the people and affairs of the people. And we speak  
13:57:42 10 of -- we speak of a ten-year transitional period with  
13:57:46 11 the hope of establishing a state. This is the actuality  
13:57:52 12 that was embedded in the Oslo Accords.

13:57:56 13 Q. Are you familiar with a document called the  
13:57:58 14 Taba agreement?

13:58:04 15 A. The Taba accords. Yes.

13:58:06 16 Q. Do you know when the Taba accords were entered  
13:58:11 17 into?

13:58:15 18 A. I don't recall.

13:58:19 19 Q. Are the Taba accords also referred to as  
13:58:21 20 the Israeli-Palestinian Interim Agreement on the --  
13:58:36 21 on the West Bank and Gaza Strip?

13:58:43 22 A. These are transitional steps following  
13:58:46 23 the first phase. Because it's known that, after the  
13:58:53 24 Authority came into Gaza and Jericho, city by city  
13:59:02 25 started to have arrangements based according to Taba

13:59:07 1 and other types of accords.

13:59:13 2 Q. Where do you -- I'm sorry. Strike that.

13:59:19 3 Were you involved in any way in these  
13:59:21 4 negotiations, Taba agreement, or the negotiations  
13:59:23 5 between the PLO and the Israelis?

13:59:31 6 A. No.

13:59:31 7 Q. Do you consider yourself to be an expert  
13:59:34 8 on these negotiations?

13:59:41 9 A. In the negotiations? Of course not.

13:59:46 10 Q. Do you consider yourself to be an expert  
13:59:48 11 on the creation of the Palestinian Authority?

14:00:05 12 A. I speak about the establishment of the  
14:00:08 13 Palestinian Authority based on an accord that is clear  
14:00:12 14 for everybody concerned. First and foremost, I work  
14:00:20 15 as an attorney. And this is the title that I will not  
14:00:27 16 give up under any circumstances.

14:00:34 17 As a lawyer, of course, this is a matter of  
14:00:36 18 concern to me. It has the legal components at the core  
14:00:40 19 of it. And as a citizen that -- that is affected by  
14:00:48 20 these laws and determining our destiny, for sure I  
14:00:59 21 must grasp it and -- and to know where we are heading.

14:01:03 22 I am not concerned, you know, to be described  
14:01:12 23 as an expert or appear on TV as an expert. But I think  
14:01:23 24 I have sufficient information to respond to the bulk,  
14:01:28 25 90 percent of the issues. And maybe people who are

14:01:37 1 dubbed as experts might not be able to -- to explain  
14:01:42 2 20 percent of the gist of the Accords.

14:01:46 3 Q. Do you understand the Palestinian Authority  
14:01:52 4 to have the right to sue other parties?

14:01:54 5 (Pending question partially translated.)

14:01:54 6 OFFICIAL INTERPRETER BEN-NAIM: "Other"?

14:02:06 7 MR. SCHOEN: "Parties."

14:02:07 8 (Remainder of pending question translated.)

14:02:08 9 THE WITNESS: Where?

14:02:12 10 Q. BY MR. SCHOEN: "Where" or "when"?

14:02:12 11 A. Where?

14:02:12 12 Q. Anyplace. Do you understand that they have --  
14:02:14 13 the PA has the legal capacity or right to file --  
14:02:25 14 sorry -- to file a lawsuit against any party anywhere?

14:02:47 15 A. In the Oslo Accords, which is our main title  
14:02:50 16 embracing, this is not stipulated. But in practical  
14:02:57 17 implementation -- but -- sorry -- but the laws clearly  
14:03:08 18 stipulate that the PA has no authority to bring to court  
14:03:13 19 Israelis, to sue Israelis.

14:03:21 20 And very clearly anyone that has committed  
14:03:24 21 any crime against an Israeli, the Israelis can take him  
14:03:30 22 and charge him. And this shows that you are not dealing  
14:03:39 23 effectively as a real state. In practical experience, I  
14:03:50 24 mean, we as an authority and particularly as a Ministry  
14:03:54 25 of Detainees, we headed to the Supreme Court in Israel

14:04:03 1 in certain cases, according to which we want to improve  
14:04:10 2 the conditions through these -- these court cases of  
14:04:13 3 the detainees who are in Israeli prisons and issues  
14:04:22 4 related to education or health or people who are ill.

14:04:27 5 And the -- the Supreme Court dismissed these  
14:04:32 6 cases. They rejected them and that the PA does not have  
14:04:38 7 the right to represent these people. This is supposed  
14:04:47 8 to be a Palestinian citizen, and this is supposed to  
14:04:51 9 be the PA. And despite this, the Israeli Supreme Court  
14:04:59 10 has rejected scores of cases under the title that it  
14:05:07 11 does not have a representative status, it is not a  
14:05:11 12 full-fledged state. But from another angle, they sue  
14:05:22 13 the PA for actions that the citizens have made. In  
14:05:31 14 that case, it has a role which is representative.

14:05:45 15 Practically, what I'm saying is that the PA,  
14:05:48 16 according to the Accords, does not have the right to  
14:05:53 17 raise cases, but for sure it has the right to defend  
14:05:59 18 itself, in case there were cases raised against her,  
14:06:06 19 or what have you, as an authority.

14:06:20 20 And when they went to the International Court  
14:06:23 21 of Justice, they did not go as a PA. They went there  
14:06:27 22 in their capacity as PLO. And the referral was through  
14:06:38 23 the General Assembly. So the -- the PA did not go  
14:06:42 24 single-handedly to -- to that court.

14:06:48 25 Q. The accord we spoke about before, the Taba

14:06:49 1 agreement -- let me call it the "Interim Agreement."

14:06:56 2 You're familiar with that term, the "Interim

14:06:59 3 Agreement"?

14:06:59 4 A. (In English.) Okay.

14:07:02 5 Q. In that agreement, the signatories to the

14:07:04 6 agreement were the PLO, United States, Israel, Russia,

14:07:16 7 Egypt --

14:07:20 8 A. (In English.) Jordan.

14:07:21 9 Q. -- Jordan, Norway, and the European Union;

14:07:27 10 correct?

14:07:29 11 You're familiar with that document?

14:07:31 12 A. (In English.) Okay.

14:07:33 13 (Translated.) Okay.

14:07:35 14 Q. Are you aware that in that document -- do

14:07:41 15 you understand that document to expressly provide for --

14:07:47 16 to expressly provide for the -- the right or power or

14:07:58 17 legal capacity of the body that would be created from

14:08:11 18 that agreement to have the right to sue other parties

14:08:26 19 or to be sued, that is, the capacity to be sued?

14:08:35 20 Do you understand that to be a part of that

14:08:36 21 agreement?

14:08:46 22 A. The actuality is not like this on the ground.

14:08:53 23 I gave you an example that what your -- if

14:08:55 24 your understanding is -- is correct in such a format,

14:09:00 25 the Israeli Supreme Court would not have rejected,

14:09:07 1 saying it has no authority.

14:09:11 2 Q. My only question is: Are you aware that that  
14:09:13 3 was provided for in that agreement?

14:09:28 4 A. Now I cannot speak because I do not have the  
14:09:30 5 text in front of me. I can speak of it if I see the  
14:09:35 6 text in front of me.

14:09:37 7 Q. Okay. Are you familiar with any cases that  
14:09:39 8 the PA has filed in the Jerusalem Magistrate Court,  
14:09:40 9 for example, commercial litigation?

14:10:00 10 (Comment in Arabic by Check Interpreter  
14:10:00 11 Hazou.)

14:10:03 12 OFFICIAL INTERPRETER BEN-NAIM: Magistrate's  
14:10:05 13 Court?

14:10:07 14 (Comment in Hebrew by Mr. Haller.)

14:10:09 15 (Comment in Arabic by Check Interpreter  
14:10:09 16 Hazou.)

14:10:13 17 THE WITNESS: What kind of cases is this?

14:10:16 18 MR. SCHOEN: Civil commercial lawsuits.

14:10:27 19 CHECK INTERPRETER HAZOU: You said  
14:10:27 20 "commercial"?

14:10:29 21 MR. SCHOEN: Yes. Meaning "business  
14:10:30 22 lawsuits."

14:10:37 23 THE WITNESS: It could be a businessman with  
14:10:39 24 a BA or an individual basis. But as an authority, which  
14:10:46 25 is a representative of the Palestinian people, what I

14:10:55 1 know, that the rulings of the Supreme Court deprive the  
 14:11:00 2 PA from the right of raising cases. And -- and we, in  
 14:11:08 3 our case as Ministry of Ex-detainees, there were five  
 14:11:11 4 cases that were rejected.

14:11:15 5 Q. BY MR. SCHOEN: Which cases were those? Do  
 14:11:17 6 you remember the name or not?

14:11:21 7 A. I know one about pursuing university studies  
 14:11:26 8 in prison and paying visits to the detainees of Gaza.  
 14:11:32 9 These are the ones I have in mind.

14:11:38 10 Q. And those cases you're referring to were  
 14:11:42 11 thrown out by the court?

14:11:46 12 A. Correct.

14:11:46 13 Q. And you believe they were thrown out by the  
 14:11:49 14 court based on a finding that the Palestinian -- PA  
 14:11:59 15 has no right to sue?

14:12:07 16 A. It is not what I think. This was clearly  
 14:12:09 17 stated by the court, the highest legal body in Israel.  
 14:12:17 18 I -- I cannot debate it. This comes from the highest  
 14:12:22 19 ruling in the State of Israel.

14:12:23 20 Q. Is it possible -- do you understand, in those  
 14:12:26 21 cases, that perhaps the court threw out the case because  
 14:12:37 22 the Palestinian Authority has no standing --

14:12:42 23 (Partial pending question translated.)

14:12:43 24 MR. SCHOEN: It's not going to translate.

14:12:45 25 OFFICIAL INTERPRETER BEN-NAIM: Don't worry.

14:12:48 1 (Remainder of pending question translated.)

14:12:53 2 Q. BY MR. SCHOEN: -- doesn't have the right to

14:12:55 3 represent that plaintiff who suffered that injury?

14:12:59 4 (Pending question partially translated.)

14:12:59 5 OFFICIAL INTERPRETER BEN-NAIM: "Injury"?

14:13:08 6 MR. SCHOEN: "Injury." "Suffered that

14:13:09 7 injury."

14:13:09 8 (Remainder of pending question translated.)

14:13:10 9 (Comment in Arabic by Check Interpreter

14:13:10 10 Hazou.)

14:13:13 11 THE WITNESS: I have not presented the cases

14:13:15 12 in the name of victims. I -- I fall under the title

14:13:23 13 of the Ministry of Detainee and Ex-detainee Affairs.

14:13:31 14 The prison authorities have signed with me

14:13:33 15 an agreement about the canteens. I meet regularly

14:13:41 16 with the prison authorities. I call them even if it's

14:13:47 17 at 1:00 a.m., not because we are friends, but because

14:13:53 18 there is work to do. I send them letters, and they

14:13:59 19 respond by official letters. This is not personal

14:14:05 20 papers or letters, that it has the logo of the --

14:14:09 21 of the PA on top of it. The prison authorities deal

14:14:16 22 with me in my capacity as a representative party.

14:14:24 23 In certain cases, for instance, at 1:00 a.m.

14:14:29 24 somebody passed away in prison. So they called me,

14:14:33 25 telling me: Come and pick up. And they asked me to

14:14:36 1 inform the family and to -- and to coordinate receiving  
14:14:43 2 the -- the corpse.

14:14:48 3 And we presented all of this in front of  
14:14:50 4 the Supreme Court. And it did not enter into the  
14:14:54 5 core of the case. It says: In principle, you have  
14:15:00 6 no representative right. So it spoke with a legal  
14:15:09 7 conviction on its behalf. And I am not going to  
14:15:15 8 debate or argue with the Supreme Court in its legal  
14:15:20 9 convictions.

14:15:26 10 And that Israel feels great pride that  
14:15:30 11 the Supreme Court is a -- a legal framework. And --  
14:15:37 12 and it is marketed as being the only democracy in  
14:15:41 13 the Middle East. If it is the only democracy, then  
14:15:47 14 we have to abide with its laws and regulations.

14:15:52 15 Q. BY MR. SCHOEN: So if the Israeli courts  
14:15:53 16 do permit the Palestinian Authority to sue in its  
14:15:56 17 courts, then we have to abide by that also?

14:16:08 18 A. How is that?

14:16:14 19 MR. McALEER: Objection as to form.

14:16:15 20 Sorry.

14:16:15 21 MR. SCHOEN: You said --

14:16:15 22 (Court reporter clarification.)

14:16:18 23 MR. SCHOEN: -- "how is that?"

14:16:20 24 OFFICIAL INTERPRETER AGHAZARIAN: "How is  
14:16:20 25 that?"

14:16:21 1 Q. BY MR. SCHOEN: I understood you to say --  
14:16:23 2 maybe sarcastically -- that if the Israeli courts, as  
14:16:35 3 a democracy, says that you can't sue -- the Palestinian  
14:16:40 4 Authority can't sue -- cannot sue in its courts, we  
14:16:48 5 have to abide by that. But if --  
14:16:54 6 MR. McALEER: Objection. Misstates the  
14:16:54 7 testimony.  
14:16:56 8 THE WITNESS: (In English.) Okay.  
14:16:59 9 Q. BY MR. SCHOEN: But if the Israeli courts --  
14:17:00 10 if the Israeli courts allow the Palestinian Authority  
14:17:08 11 to sue in its courts and to maintain a lawsuit against  
14:17:17 12 another party, if that were the case, then you would  
14:17:27 13 agree the Palestinian Authority has the right to sue,  
14:17:32 14 at least in Israeli courts?  
14:17:41 15 MR. McALEER: Objection as to form.  
14:17:43 16 THE WITNESS: This is a virtual question  
14:17:44 17 that I am not able to answer.  
14:17:48 18 Q. BY MR. SCHOEN: Okay. Let me ask you a real  
14:17:50 19 question. Maybe you can answer.  
14:17:52 20 Are you familiar with the case Palestinian  
14:17:58 21 Authority versus -- versus Shlomo Transportation, a  
14:18:10 22 case, I represent to you, filed in the Israeli courts?  
14:18:17 23 Are you familiar with that case?  
14:18:21 24 A. I don't know about this case. But -- but  
14:18:33 25 we're speaking from the name, Shlomo Transportation,

14:18:36 1 that this might be a person that made an accord with  
14:18:40 2 the PA. It will -- it will sue it not on the basis  
14:18:44 3 of being a PA, but rather having a party with whom a  
14:18:49 4 contract has been signed. This is completely different  
14:18:54 5 from what we're up to, what we're talking about.

14:19:01 6 For the PA to have the authority to be  
14:19:03 7 representative like any other state and -- but there  
14:19:11 8 is -- there is a big difference if there is a contract  
14:19:14 9 which is signed with an Israeli party and -- and they  
14:19:18 10 go as contract signatories. The issue is: Where does  
14:19:26 11 this right for -- for bringing to court has emanated?  
14:19:31 12 Is it an outcome of an accord or whether it has to do  
14:19:41 13 with its existence as an authority? And the difference  
14:19:45 14 is huge between the two.

14:19:50 15 MR. HALLER: An "accord" or a "contract"?

14:19:51 16 "Accord"?

14:19:52 17 OFFICIAL INTERPRETER AGHAZARIAN: "Accord."

14:19:55 18 MR. HALLER: Not an "agreement" or a  
14:19:56 19 "contract"?

14:19:58 20 George?

14:20:00 21 (Comment in Arabic by Check Interpreter  
14:20:00 22 Hazou.)

14:20:11 23 THE WITNESS: Between a contract -- it has  
14:20:12 24 to do between a contract or based on an agreement in  
14:20:20 25 the whole structure, existence of the PA. Its existence

14:20:25 1 has -- is related to this right.

14:20:28 2 Q. BY MR. SCHOEN: Do you agree that the  
14:20:29 3 Palestinian Authority has the ability, the right,  
14:20:36 4 the capacity --

14:20:40 5 (Comment in Arabic by Check Interpreter  
14:20:40 6 Hazou.)

14:20:41 7 Q. BY MR. SCHOEN: -- to bring a lawsuit in the  
14:20:43 8 Israeli courts under the name "Palestinian Authority"?

14:20:56 9 MR. McALEER: Objection as to form.

14:21:02 10 THE WITNESS: It's not important whether you  
14:21:04 11 have the right to raise a case. We did do it. I have  
14:21:12 12 raised cases in the name of my ministry and the PA.

14:21:15 13 But what was the outcome? The outcome said:  
14:21:20 14 You don't have this right. Go home.

14:21:29 15 Q. BY MR. SCHOEN: Let me be clear. I'm not  
14:21:31 16 asking you about any lawsuit brought in the name of  
14:21:37 17 any ministry.

14:21:44 18 I'm asking you if you are aware, "yes" or  
14:21:52 19 "no," if you can, if you're aware that the Palestinian  
14:22:00 20 Authority, in its own name "Palestinian Authority,"  
14:22:06 21 over the past four years, for example, through today  
14:22:21 22 has filed a lawsuit in the Israeli courts and such a  
14:22:32 23 lawsuit brought in the Palestinian Authority name is  
14:22:42 24 allowed to proceed in the Israeli courts?

14:22:54 25 MR. McALEER: Objection as to form.

14:22:57 1 THE WITNESS: I don't have any objection.

14:23:03 2 Q. BY MR. SCHOEN: I think you heard "objection."

14:23:05 3 A. I'm not familiar with the matter. I cannot

14:23:10 4 answer by "yes" or "no."

14:23:12 5 Q. Okay. You're not aware? That's the answer?

14:23:18 6 A. No, I'm not familiar.

14:23:29 7 MR. SCHOEN: Okay. We'll take a break now,

14:23:30 8 then. There may be a question about terminology that

14:23:34 9 can be sorted out, translation or --

14:23:36 10 MR. ROCHON: We're off the record?

14:23:40 11 THE VIDEOGRAPHER: Off the record at 2:22.

14:23:43 12 (Recess from 2:22 p.m. to 2:45 p.m.)

14:45:02 13 THE VIDEOGRAPHER: Going back on record at

14:45:03 14 2:45.

14:45:12 15 Q. BY MR. SCHOEN: As a representative of the

14:45:14 16 Palestinian Authority today, can the Palestinian

14:45:20 17 Authority enter into a contract with another party?

14:45:32 18 A. What do you mean by "another party"?

14:45:36 19 OFFICIAL INTERPRETER BEN-NAIM: No.

14:45:34 20 OFFICIAL INTERPRETER AGHAZARIAN: "A contract.

14:45:36 21 What do you mean by 'contract'?"

14:45:38 22 OFFICIAL INTERPRETER BEN-NAIM: Sorry.

14:45:41 23 Q. BY MR. SCHOEN: What do you mean by a

14:45:42 24 "contract"?

14:45:44 25 Any idea what a contract is?

14:45:49 1 A. It's not me who asked the question.

14:45:51 2 Q. Yeah. If the Palestinian Authority wants

14:45:53 3 to buy 50 widgets from a company --

14:46:00 4 CHECK INTERPRETER HAZOU: Fifty what?

14:46:01 5 MR. SCHOEN: "Things."

14:46:02 6 Q. BY MR. SCHOEN: -- 50 things from a company,

14:46:14 7 wants to buy them, and a company wants to sell them --

14:46:25 8 A. (In English.) Okay.

14:46:25 9 Q. -- could the Palestinian Authority buy them

14:46:29 10 in its own name, first of all?

14:46:37 11 A. Of course it can.

14:46:38 12 Q. And could it enter into an agreement with

14:46:40 13 the seller to buy those things?

14:46:52 14 A. For sure.

14:46:53 15 Q. Now, let's forget, in my question, about the

14:46:56 16 Israeli courts for a second.

14:47:02 17 A. (In English.) Okay.

14:47:03 18 Q. Could the Palestinian Authority -- sorry.

14:47:07 19 If the company that it made an agreement

14:47:09 20 to buy the 50 things from doesn't provide them with

14:47:19 21 the 50 things or they're not in the condition that the

14:47:27 22 Palestinian Authority wanted them to be in, the seller

14:47:36 23 broke its agreement with the Palestinian Authority in

14:47:38 24 some way --

14:47:42 25 A. (In English.) Okay. Okay.

14:47:44 1 Q. -- could the Palestinian Authority file a  
14:47:47 2 lawsuit in any court, either its own court, the court  
14:47:57 3 of the country that the seller is in -- forget about  
14:48:01 4 Israel --  
14:48:08 5 A. (In English.) Okay. Okay.  
14:48:09 6 Q. -- or anyplace?  
14:48:11 7 MR. McALEER: Objection. Form.  
14:48:13 8 THE WITNESS: For sure. For sure.  
14:48:23 9 I answered you, but you insist on pushing  
14:48:27 10 forward because there is certain response that you  
14:48:30 11 want me to say.  
14:48:43 12 When the PA went to court, they went because  
14:48:47 13 there was a deviation from the contract that was signed  
14:48:50 14 with this given company, not in its capacity -- not  
14:48:59 15 in its capacity as representative of the Palestinian  
14:49:00 16 people, but rather as not abiding by the signed  
14:49:06 17 contract. So I am suing you because there is a  
14:49:18 18 contract, contractual agreement, not I am coming  
14:49:22 19 to sue you in the name of the Palestinian people.  
14:49:24 20 And if there is a case, for example, in  
14:49:28 21 Geneva or elsewhere, depending on where the issue is  
14:49:33 22 related locationwise, this is a situation which is  
14:49:42 23 radically different from the legal status of the PA.  
14:49:52 24 This is a different matter altogether. I could sign  
14:49:56 25 a contract with any party and then sue him in case

14:50:04 1 there is a breach.

14:50:08 2 Q. BY MR. SCHOEN: Let me be clear.

14:50:11 3 You started your answer by saying something

14:50:20 4 about what you think I want your answer to be. If it's

14:50:38 5 possible, I would just like an answer to my question.

14:50:44 6 I can tell you -- I can tell you that I don't think

14:50:54 7 you know what I'm -- that I'm looking for a particular

14:50:57 8 answer. I'm just asking you -- but okay.

14:51:02 9 Anyway, you answer as you think appropriate.

14:51:05 10 (Pending question partially translated.)

14:51:07 11 OFFICIAL INTERPRETER BEN-NAIM: "Anyway"?

14:51:08 12 MR. SCHOEN: "You answer as you think

14:51:10 13 appropriate."

14:51:10 14 (Remainder of pending question translated.)

14:51:12 15 MR. McALEER: Counsel, is there any pending

14:51:14 16 question?

14:51:15 17 MR. SCHOEN: No.

14:51:16 18 MR. McALEER: All right. So there's no

14:51:17 19 pending question.

14:51:22 20 THE WITNESS: (In English.) Okay. Okay.

14:51:23 21 Q. BY MR. SCHOEN: If the -- in that same case --

14:51:27 22 hypothetical case I gave you, the Palestinian Authority

14:51:38 23 doesn't pay the money it's supposed to pay to buy these

14:51:45 24 50 things, are you aware of any court -- let's not talk

14:51:53 25 about Israel -- any court where that company could sue

14:51:58 1 the Palestinian Authority in the name Palestinian --  
14:52:05 2 in its name, Palestinian Authority, for breaking that  
14:52:12 3 agreement?

14:52:16 4 MR. McALEER: Objection as to form.

14:52:24 5 THE WITNESS: I don't know if there are cases  
14:52:25 6 that were raised or not raised.

14:52:30 7 But I reiterate, once again, that there is  
14:52:49 8 a distinction between suing the Palestinian Authority  
14:52:52 9 in order to make claims, compensations, based on  
14:52:56 10 certain contractual agreements or in its representative  
14:53:03 11 capacity of the Palestinian people. It does not have  
14:53:10 12 a representative character. As much, suing it is --  
14:53:19 13 is not correct. The only things that you can base  
14:53:29 14 yourself to go into a lawsuit, if there is a contractual  
14:53:35 15 agreement that has been breached.

14:53:41 16 I will say the same hypothetical position  
14:53:44 17 you're taking, I will tell you. If in the contract  
14:53:50 18 for supplying the -- the 50 things that there might  
14:54:00 19 be an item saying you go to arbitration -- arbitration,  
14:54:05 20 international or otherwise, and -- or to a chamber of  
14:54:09 21 commerce, in that case, the PA has no authority to go  
14:54:15 22 to court. Whereas, a -- a nat -- a natural state that  
14:54:25 23 has representative, this does not apply on it.

14:54:28 24 Q. BY MR. SCHOEN: So the PA cannot go to  
14:54:30 25 arbitration in the name PA?

14:54:42 1 A. No. That's not the answer.

14:54:50 2 I used this example in order to say on what  
14:54:54 3 I am basing myself. I say that this is my pen. Why?  
14:55:04 4 Not because I own it and I am the legitimate owner of  
14:55:09 5 this pen or because I own all this room and everything  
14:55:16 6 in it. I own this because I have a contractual deal  
14:55:22 7 with you that I have sold -- sold -- you have sold it  
14:55:25 8 to me. The establishment of such a commitment is based  
14:55:38 9 on the contractual agreement.

14:55:43 10 For countries to have representative  
14:55:45 11 character, do not need to have contractual agreements.

14:55:54 12 But if it is treated as a state, then let it get  
14:55:59 13 engaged or join international institutions. So you  
14:56:06 14 have no international status. That's how I can answer.  
14:56:16 15 This is my understanding of the legal status of the PA.

14:56:21 16 Q. I'm not asking you about the legal status  
14:56:24 17 right now.

14:56:32 18 There's an entity called Palestinian  
14:56:34 19 Authority; correct?

14:56:42 20 A. "Sahir."

14:56:42 21 Q. Does that entity, Palestinian Authority,  
14:56:44 22 in its name, Palestinian Authority, ever enter into  
14:56:50 23 a contract with another party?

14:56:57 24 A. Yes. Of course they did.

14:56:58 25 Q. Okay. And that entity, Palestinian Authority,

14:57:06 1 is an entity's name that can appear -- would appear on  
14:57:09 2 the contract; right?

14:57:10 3 Palestinian Authority and Rami Levy enter  
14:57:13 4 into an agreement.

14:57:17 5 A. Normal. What's the -- what's the problem?

14:57:28 6 Q. That's normal?

14:57:29 7 I'm trying to say: The name Palestinian  
14:57:32 8 Authority -- if you were to look at the contract, the  
14:57:34 9 written agreement, the name "Palestinian Authority"  
14:57:40 10 would be the buyer?

14:57:51 11 A. Okay.

14:57:52 12 Q. And another party would appear as the seller,  
14:57:54 13 some other name?

14:57:59 14 A. What's the problem?

14:58:03 15 Q. The agreement is broken by the other party;  
14:58:05 16 right?

14:58:11 17 A. (In English.) Okay.

14:58:14 18 Q. The Palestinian Authority wants to sue this  
14:58:19 19 other party.

14:58:31 20 A. It's right.

14:58:32 21 Q. Can there be a lawsuit called --  
14:58:34 22 (Court reporter clarification.)

14:58:34 23 OFFICIAL INTERPRETER AGHAZARIAN: He says:  
14:58:34 24 "It's right."

14:58:34 25 Q. BY MR. SCHOEN: Can there be a lawsuit called

14:58:34 1 Palestinian Authority -- the name of the case -- against  
 14:58:44 2 whoever that -- the name of that seller is?

14:58:51 3 A. It is not important what -- under what name  
 14:58:53 4 it comes. It has to do with the really [sic] content.

14:58:56 5 Q. I'm not asking you what's important. I'm  
 14:59:00 6 only asking you -- I'm only asking you whether it  
 14:59:04 7 could appear?

14:59:06 8 A. I don't have -- I don't have a case which  
 14:59:08 9 is registered in front of me. The PA calls itself the  
 14:59:19 10 PNA. And Israel is -- does not agree on such a name.  
 14:59:25 11 And anything which has the "N" in it is crossed off.  
 14:59:33 12 So if they don't agree on the name, does this mean  
 14:59:37 13 that they will agree on the content?

14:59:39 14 Q. I said: Let's forget about Israel. I'm  
 14:59:44 15 talking only about another court, some court other  
 14:59:46 16 than Israel.

14:59:48 17 You're a representative of the PA. Is it your  
 14:59:53 18 testimony today under oath, as a representative of the  
 14:59:59 19 PA, that the PA or PNA, whichever you want to call it,  
 15:00:15 20 can or cannot enter into a contract, an agreement, with  
 15:00:24 21 another party under the name Palestinian Authority or  
 15:00:32 22 Palestinian National Authority, whether or not that's  
 15:00:37 23 important for some other reason?

15:00:40 24 I'm only asking you: Can it enter into such  
 15:00:43 25 a contract under that name?

15:00:52 1 A. I answered you 100 times: Yes, it -- it can.

15:00:58 2 Q. Okay.

15:00:58 3 A. It can. It can. It can.

15:01:00 4 What next?

15:01:00 5 Q. Okay. Can the Palestinian Authority, by

15:01:06 6 that name, or the Palestinian National Authority, by

15:01:17 7 that name, file a lawsuit in any court -- in some court

15:01:29 8 in the world in that name -- brought in that name?

15:01:38 9 A. Based on the agreement, yes.

15:01:41 10 Q. Okay. And is it your testimony further

15:01:45 11 that, if that Palestinian Authority brings a lawsuit,

15:01:57 12 it's only bringing it in that name, but not as a

15:02:06 13 representative of the Palestinian people?

15:02:21 14 MR. McALEER: Objection as to form.

15:02:25 15 THE WITNESS: Is it representative or not

15:02:27 16 representative?

15:02:28 17 Q. BY MR. SCHOEN: That's what I was asking.

15:02:31 18 A. What is your question? What did you say?

15:02:33 19 What did you say?

15:02:35 20 Q. I thought I understood before that you said

15:02:45 21 the Palestinian Authority can file a case in that name,

15:02:50 22 but only because that's the name that was used on the

15:02:58 23 contract, not because it's a representative of the

15:03:07 24 Palestinian people -- not because it's a representative

15:03:14 25 of the Palestinian people.

15:03:19 1 A. For sure I have a question to raise.

15:03:24 2 Let's use the example that you have used.

15:03:25 3 If -- if they -- if they want to -- to -- to raise

15:03:36 4 a case against Rami Levy without having a contract,

15:03:41 5 will it say in my capacity representing the Palestinian

15:03:48 6 people, Rami Levy, for instance, has sold a certain

15:03:56 7 merchandise for certain Palestinians who -- who had

15:04:01 8 the damage?

15:04:02 9 Or -- I tell you beforehand that this case

15:04:10 10 will be rejected. And those who have been affected

15:04:14 11 negatively, they are the ones to come and sue, because

15:04:18 12 it doesn't have a representative character. But if

15:04:23 13 the PA has a contract with Rami Levy in order to provide

15:04:29 14 certain material and there was a breach, then it can

15:04:34 15 go and sue it.

15:04:36 16 Q. Okay.

15:04:36 17 A. And this emanated from the contractual

15:04:40 18 document --

15:04:40 19 Q. Okay.

15:04:40 20 A. -- and nothing else.

15:04:41 21 Q. Okay. Can the Palestinian Authority bring

15:04:43 22 criminal charges against someone?

15:04:53 23 MR. McALEER: Objection as to form.

15:04:55 24 THE WITNESS: I didn't understand your

15:04:56 25 question. What do you mean by a "criminal lawsuit"?

15:05:02 1 Q. BY MR. SCHOEN: Where does the Palestinian  
15:05:03 2 Authority have its authority?  
15:05:06 3 Where are its courts? Where are its jails?  
15:05:09 4 (Pending question partially translated.)  
15:05:10 5 MR. SCHOEN: All right. Let me -- let me  
15:05:16 6 rephrase -- strike it.  
15:05:18 7 OFFICIAL INTERPRETER BEN-NAIM: Okay.  
15:05:18 8 Q. BY MR. SCHOEN: If a crime is committed within  
15:05:24 9 territory governed by the Palestinian Authority, can the  
15:05:35 10 Palestinian Authority bring a criminal prosecution for  
15:05:37 11 that crime?  
15:05:47 12 A. Of course.  
15:05:47 13 Q. Does the Palestinian Authority operate a court  
15:05:50 14 system?  
15:05:55 15 A. Of course.  
15:05:55 16 Q. Does the Palestinian Authority have a -- an  
15:06:00 17 executive branch, if you know -- if that's --  
15:06:06 18 MR. McALEER: Objection as to form.  
15:06:09 19 THE WITNESS: Of course.  
15:06:10 20 Q. BY MR. SCHOEN: Does the Palestinian Authority  
15:06:11 21 have a legislative branch?  
15:06:20 22 (Comment in Arabic by Check Interpreter  
15:06:20 23 Hazou.)  
15:06:22 24 THE WITNESS: Currently, no.  
15:06:23 25 Q. BY MR. SCHOEN: Is there a provision for the

15:06:25 1 Palestinian Authority to have a legislative branch in  
 15:06:29 2 the Oslo Accords?

15:06:43 3 A. No. The Oslo Accords stipulates that there  
 15:06:52 4 should be an Executive Council that needs to -- to be  
 15:06:58 5 coordinated with the Israelis. The last thing is the  
 15:07:08 6 legislative authority. They are supposed to have a  
 15:07:16 7 joint Israeli-Palestinian committee if it approves  
 15:07:21 8 that it becomes legal. Otherwise, it's pending.

15:07:26 9 But we already spoke about what happened on  
 15:07:29 10 the ground was different from this. And we explained  
 15:07:31 11 the procedure earlier. And we said that this was  
 15:07:39 12 changed because it is more of an Israeli interest  
 15:07:43 13 than a Palestinian one.

15:08:14 14 Q. If the -- if a person, living in the area  
 15:08:17 15 where the Palestinian Authority governs, commits a  
 15:08:32 16 crime, you already said he could be prosecuted  
 15:08:40 17 criminally by the Palestinian Authority; right?

15:08:44 18 A. Correct.

15:08:45 19 Q. Could that person who's being charged say  
 15:08:49 20 and win with this argument --

15:08:53 21 (Pending question partially translated.)

15:09:02 22 (Brief exchange in Arabic between Official  
 15:09:02 23 Interpreter Ben-Naim and Check Interpreter Hazou.)

15:09:11 24 (Remainder of pending question translated.)

15:09:12 25 OFFICIAL INTERPRETER BEN-NAIM: What can he

15:09:19 1 say, and then?

15:09:20 2 Q. BY MR. SCHOEN: Can that -- can that person

15:09:22 3 who's charged with a crime say: I don't want to be

15:09:25 4 prosecuted by the Palestinian Authority because I don't

15:09:33 5 want to come under your authority and voluntarily just

15:09:42 6 withdraw from it and avoid prosecution?

15:09:48 7 MR. McALEER: Object -- objection as to form.

15:09:51 8 THE WITNESS: I don't understand.

15:09:57 9 (Comment in Arabic by the witness.)

15:09:57 10 OFFICIAL INTERPRETER BEN-NAIM: Aah.

15:09:57 11 I -- "I understand."

15:10:07 12 THE WITNESS: No, I don't understand this.

15:10:10 13 What do you mean? Somebody -- somebody who

15:10:11 14 says, you know: I don't want the authority, so I walk

15:10:16 15 out?

15:10:16 16 But somebody -- but, you know, the -- the

15:10:20 17 authority cannot obligate somebody that they will sue

15:10:24 18 him. So somebody who is living under the umbrella of

15:10:34 19 the authority and then he decides, "I don't want your

15:10:39 20 authority," this is un-understandable [sic].

15:10:44 21 It is not only states that have courts.

15:10:46 22 There are many areas that have autonomy and do not have

15:10:54 23 the authority of a state or -- and -- and despite that,

15:10:59 24 they sort of have lawsuits.

15:11:09 25 Before the PA came, the -- it was -- the

15:11:13 1 Palestinian laws were under the aegis of the Israeli  
15:11:17 2 occupation, the same kind of laws. And when the PA  
15:11:24 3 came, they assumed the same body and continued working.  
15:11:35 4 The whole world, including the General Assembly of the  
15:11:39 5 U.N. and headed by the U.S., were saying this as early  
15:11:48 6 as that: Continue to be occupied, including East  
15:11:52 7 Jerusalem and Gaza Strip. Despite that, there was a  
15:11:58 8 judicial system, and people were being taken to court  
15:12:02 9 and otherwise.

15:12:05 10 I don't know what is the purpose for all these  
15:12:10 11 questions. I have questions that I have answered more  
15:12:16 12 than ten times. I have no problem. I can stay as much  
15:12:25 13 as you want.

15:12:26 14 Q. BY MR. SCHOEN: Do you know who Hassan Al-Ouri  
15:12:31 15 is?

15:12:31 16 OFFICIAL INTERPRETER AGHAZARIAN: "Ouri"?

15:12:32 17 MR. SCHOEN: "Ouri."

15:12:32 18 THE WITNESS: Yes, I do know him.

15:12:34 19 Q. BY MR. SCHOEN: Who is that? Who is that?

15:12:35 20 A. Hassan Al-Ouri, yeah. He's a colleague.  
15:12:41 21 He's a lawyer. And since a couple years, I believe he  
15:12:49 22 has been appointed as a legal advisor for the president.  
15:12:57 23 I know him as a colleague attorney, together.

15:13:02 24 Q. (Not translated.) If Hassan -- may I just  
15:13:05 25 call him Hassan because --

15:13:07 1 A. (In English.) No problem.

15:13:08 2 Q. Okay. If Hassan's legal advice was that

15:13:12 3 the Palestinian Authority has the right to take

15:13:24 4 legal action against Israeli leaders and settlers

15:13:37 5 who practice terrorism against the Palestinian people

15:13:46 6 in international -- sue in inter -- have the right to

15:13:49 7 bring suit in international courts or anyplace else,

15:14:01 8 would you agree with such a position that there is

15:14:06 9 such a right?

15:14:06 10 (Pending question partially translated.)

15:14:12 11 MR. McALEER: Objection.

15:14:13 12 OFFICIAL INTERPRETER BEN-NAIM: "Would you

15:14:14 13 agree"?

15:14:14 14 MR. McALEER: Objection as to form.

15:14:15 15 (Remainder of pending question translated.)

15:14:16 16 THE WITNESS: No, I don't agree with them.

15:14:19 17 Q. BY MR. SCHOEN: Are you aware that that's

15:14:20 18 a publicly stated position Hassan has taken?

15:14:33 19 A. This is maybe a personal opinion. That's

15:14:35 20 his opinion. Maybe he exposed it in a press interview.

15:14:44 21 But if he's requested to come up with -- with -- with

15:14:48 22 a full-fledged package of -- from a legal point of view,

15:14:53 23 he cannot respond in such a way.

15:14:58 24 Q. So --

15:14:58 25 A. In the media, he can say whatever he -- he

15:15:01 1 wants.

15:15:01 2 Q. Okay. So as today, the representative of  
15:15:03 3 the PA as you sit here, is it your testimony that the  
15:15:12 4 PA does not have the right -- the legal right to take  
15:15:19 5 legal action against Israeli leaders and settlers who  
15:15:35 6 practice terrorism against the Palestinian people?

15:15:39 7 MR. McALEER: Objection as to form.

15:15:47 8 THE WITNESS: I think that all the cases that  
15:15:51 9 were raised against Israel, particularly against Israeli  
15:16:00 10 leaders such as Livni, Mofaz, and others, it is not  
15:16:04 11 the Authority that raised it. It was the civil society  
15:16:14 12 organizations, Palestinian, that have moved in that  
15:16:16 13 direction. And this is what represented the Palestinian  
15:16:24 14 citizens. The PA has not raised such cases, and it has  
15:16:35 15 not the capacity to do that.

15:16:37 16 Q. BY MR. SCHOEN: Aah. So to be clear, I didn't  
15:16:39 17 ask you whether they had already brought; right?

15:16:43 18 (Pending question partially translated.)

15:16:45 19 OFFICIAL INTERPRETER BEN-NAIM: "Whether"?

15:16:45 20 MR. SCHOEN: "Whether they already had brought  
15:16:48 21 a case."

15:16:48 22 (Remainder of pending question translated.)

15:16:48 23 THE WITNESS: In my opinion, it has no right  
15:16:51 24 to raise such cases.

15:16:53 25 Q. BY MR. SCHOEN: I'm asking you as a

15:16:55 1 representative of the PA today.

15:16:57 2 MR. McALEER: Objection as to form.

15:16:59 3 THE WITNESS: This is my personal conviction.

15:17:01 4 Me, as a legal advisor, this is my -- my conviction.

15:17:08 5 Q. BY MR. SCHOEN: As -- as a legal advisor to  
15:17:10 6 the PA?

15:17:17 7 A. If I was asked that we will raise cases  
15:17:20 8 against Israeli leaders, what do you think? I would  
15:17:26 9 say: Refrain from that. The CSOs can do that. But,  
15:17:35 10 whereas, in our case, the case will be dismissed.

15:17:38 11 That's my personal conviction.

15:17:56 12 Q. Are you aware that the Palestinian Authority  
15:18:04 13 has taken the position in lawsuits that it should be  
15:18:12 14 treated like a state?

15:18:18 15 Just are you aware that it has taken that  
15:18:21 16 position?

15:18:22 17 A. No.

15:18:23 18 Q. Are you aware that the Palestinian Authority  
15:18:26 19 has taken the position in lawsuits -- I don't know if  
15:18:34 20 the term's going to translate now -- that it's entitled  
15:18:43 21 to sovereign immunity?

15:18:56 22 CHECK INTERPRETER HAZOU: Yes.

15:18:58 23 THE WITNESS: I have no idea.

15:18:59 24 Q. BY MR. SCHOEN: Are you aware that the  
15:19:00 25 Palestinian Authority has taken the position that it

15:19:10 1 should be treated like a state before the International  
15:19:16 2 Criminal Court?

15:19:16 3 (Pending question partially translated.)

15:19:22 4 OFFICIAL INTERPRETER BEN-NAIM: Before the  
15:19:23 5 International Court?

15:19:24 6 MR. SCHOEN: "Criminal." "Criminal Court."

15:19:25 7 OFFICIAL INTERPRETER BEN-NAIM: "Criminal."

15:19:27 8 (Remainder of pending question translated.)

15:19:35 9 THE WITNESS: The PA requested this. What  
15:19:38 10 was the response of the International Criminal Court?

15:19:41 11 Q. BY MR. SCHOEN: I only asked whether it was  
15:19:43 12 requested.

15:19:47 13 A. Sorry, sir. You raised the questions. At  
15:19:51 14 the same time, you have to listen.

15:19:52 15 Ocampo said that you are not a state and you  
15:19:59 16 are not entitled to this. You might claim whatever you  
15:20:05 17 want. But your actual situation, does it allow or not?

15:20:14 18 If I change my opinion and I say: Yes, we  
15:20:18 19 do have the right, does this mean that we own that  
15:20:21 20 right? These are dreams. People can dream the way  
15:20:26 21 they want. And the dream is something, and the  
15:20:29 22 actuality is something else.

15:20:32 23 Q. Do you know whether the PA currently takes  
15:20:39 24 the position or plans to take the position in the  
15:20:49 25 future -- plans right now -- plans -- makes the plan

15:20:57 1 in the future, but it's the plan right now to continue  
15:21:03 2 arguing before the International Criminal Court that  
15:21:16 3 it should be treated as a state?

15:21:21 4 Or do you know if the PA intends to abandon  
15:21:29 5 that position? If you know.

15:21:36 6 MR. McALEER: Objection as to form.

15:21:40 7 THE WITNESS: I don't know. It's not me who  
15:21:43 8 is pursuing this.

15:21:46 9 Q. BY MR. SCHOEN: As a representative of the  
15:21:47 10 PA today, is it your position that the International  
15:21:52 11 Criminal Court should treat the Palestinian Authority  
15:22:03 12 as a state?

15:22:04 13 A. (Translated.) In my opinion -- I express  
15:22:13 14 my personal opinion that the -- the Authority, in  
15:22:20 15 its actuality, does not have the representative right.  
15:22:28 16 There are people that think otherwise. And maybe  
15:22:35 17 colleagues of mine, who even work as legal advisors,  
15:22:38 18 they might give divergent points of view completely.  
15:22:46 19 But at the end of the day, it is not my or their opinion  
15:22:51 20 that determines. It's the actuality on the ground.

15:22:55 21 And in the example that you utilize, there  
15:22:59 22 were two opinions. There were people who said: Don't  
15:23:03 23 go to the International Court [sic]. And there was  
15:23:05 24 a position: Go ahead.

15:23:08 25 (In English.) "Criminal Court."

15:23:10 1 MR. SCHOEN: "International Criminal Court,"  
 15:23:10 2 he's saying.

15:23:22 3 OFFICIAL INTERPRETER AGHAZARIAN:

15:23:22 4 "International Court," I said. So  
 15:23:22 5 "International Criminal Court."

15:23:11 6 THE WITNESS: And the PA adopted the idea  
 15:23:24 7 of those saying: Go ahead. But, in fact, they said:  
 15:23:31 8 Go home. You have nothing to do here. This is the  
 15:23:38 9 reality on the ground, not what I wish for.

15:23:44 10 And there were people who thought that,  
 15:23:47 11 within ten years, the Oslo separations would -- would  
 15:23:52 12 be implied [sic] and we would have a state. But the  
 15:23:59 13 agreement did not say: Once you have ten years elapse  
 15:24:05 14 and then you have a state.

15:24:08 15 And if we were actually a state, all this  
 15:24:14 16 existing reality on the ground -- the ICC in -- in the  
 15:24:20 17 Hague, on the issue of the wall, considered that the  
 15:24:30 18 Palestinian areas are still under occupation. It said  
 15:24:37 19 all lands occupied since 1967 still is subject to the  
 15:24:43 20 Geneva Accords and it is occupied areas. It cannot be  
 15:24:55 21 to have occupied areas and, at the same time, you have  
 15:24:57 22 some kind of state within it.

15:25:00 23 Q. BY MR. SCHOEN: Is the Palestinian Authority's  
 15:25:03 24 position that it should be considered a state before  
 15:25:06 25 the United Nations?

15:25:15 1 MR. McALEER: Objection as to form.

15:25:25 2 THE WITNESS: Once again, it is not important

15:25:28 3 what the PA states.

15:25:30 4 Q. BY MR. SCHOEN: But that's my question. My

15:25:32 5 question is whether it states or believes?

15:25:40 6 A. What?

15:25:41 7 Q. My -- my only question is whether the -- the

15:25:44 8 PA's position is -- its belief -- its -- its public

15:25:49 9 statement to the U.N. is that we, the Palestinian

15:25:54 10 Authority, should be treated like a state?

15:26:03 11 MR. McALEER: Objection as to form.

15:26:05 12 I think part of the problem, David, is that

15:26:08 13 the way your question is posed, it doesn't address the

15:26:12 14 question of whether there is implementing action for

15:26:15 15 such an express aspiration.

15:26:19 16 MR. SCHOEN: I don't need my question -- and

15:26:19 17 that's a speaking objection that we don't need. That

15:26:22 18 is coaching the witness, in my view.

15:26:24 19 MR. McALEER: Well --

15:26:25 20 MR. SCHOEN: It may not be intended to. But

15:26:25 21 it's going into substance.

15:26:26 22 Q. BY MR. SCHOEN: I have a very simple question,

15:26:28 23 whether it's -- you know, as well as I do, that the

15:26:29 24 Palestinian Authority has advocated before the United

15:26:37 25 Nations and before the world that it should be treated

15:26:43 1 as a member state of the United Nations. Maybe it  
15:26:50 2 should. Maybe it shouldn't. I don't know.

15:26:56 3 But I'm asking simply whether it's the  
15:27:02 4 position of the Palestinian Authority that it should  
15:27:04 5 be treated as a state and should -- should be permitted  
15:27:11 6 to be a member state of the United Nations?

15:27:20 7 MR. McALEER: Objection to form for the  
15:27:22 8 reasons stated. And, additionally, if that's your  
15:27:25 9 construct and solely your construct, that has no  
15:27:28 10 relevance to this case.

15:27:30 11 MR. SCHOEN: That's simply not true.

15:27:32 12 MR. McALEER: Okay.

15:27:32 13 MR. SCHOEN: Well, are you instructing the  
15:27:32 14 witness not to answer?

15:27:33 15 MR. ROCHON: Yes. I'm instructing him not  
15:27:34 16 to answer that question.

15:27:34 17 If you say: Does it consider itself to be  
15:27:37 18 one now -- that's the question? Does it say that it  
15:27:39 19 is a state, not whether it should be? "Should" is a  
15:27:42 20 prescriptive. That's the problem with the question.

15:27:44 21 As phrased, I'm instructing him not to answer.

15:27:47 22 MR. SCHOEN: Okay. I'm asking both questions.  
15:27:47 23 So you need to decide --

15:27:48 24 MR. ROCHON: Then break it up.

15:27:49 25 MR. SCHOEN: I'm asking both questions:

15:27:51 1 Whether it considers itself to be a state --

15:27:54 2 MR. ROCHON: Right now?

15:27:55 3 MR. SCHOEN: Yes.

15:27:55 4 -- and whether it considers itself -- whether

15:27:56 5 it believes it should be treated as a state.

15:28:00 6 MR. ROCHON: Right now?

15:28:01 7 MR. SCHOEN: Yes. Whether it believes it

15:28:03 8 should be treated and welcomed in as a member state

15:28:04 9 of the United Nations.

15:28:04 10 MR. ROCHON: Okay. If you break it up that

15:28:06 11 way, I won't instruct.

15:28:08 12 MR. SCHOEN: Either way, you would instruct

15:28:08 13 him not to answer? What's the basis for instructing

15:28:10 14 not to answer?

15:28:12 15 MR. ROCHON: On the first formulation,

15:28:12 16 whether it should it be a state, it's simply what --

15:28:14 17 is so confusing that it's going to lead to a mistaken

15:28:16 18 answer. It's -- it's a belief.

15:28:18 19 Should it be a state? Certainly the

15:28:20 20 Palestinian Authority should be a state some day.

15:28:23 21 You have to decide whether or not it is currently

15:28:25 22 a state. All we're here for is to find out whether

15:28:26 23 it currently has a capacity to be sued.

15:28:29 24 MR. SCHOEN: That's what it is. Do you

15:28:31 25 understand that to be a basis for an instruction not

15:28:32 1 to answer under Rule 30?

15:28:35 2 MR. ROCHON: On -- on the "should" which  
15:28:35 3 gets into all these diplomatic issues and the current  
15:28:37 4 position of President Abbas, yes.

15:28:39 5 MR. SCHOEN: So your objection is on political  
15:28:39 6 grounds or diplomatic grounds?

15:28:42 7 MR. ROCHON: As to what should happen in the  
15:28:43 8 future? That's a political issue. That's not what he's  
15:28:44 9 here for. He's here to talk about what our client is  
15:28:47 10 today. Ask him about today.

15:28:49 11 MR. SCHOEN: And if -- I'm going to ask him  
15:28:49 12 the questions. You can instruct him not to answer.

15:28:51 13 MR. ROCHON: Just -- just ask a clear one.

15:28:56 14 Q. BY MR. SCHOEN: Is it the PA's position that  
15:29:00 15 today or sometime in the near future the United Nations  
15:29:10 16 should treat the Palestinian Authority, as it currently  
15:29:19 17 exists, as a state?

15:29:22 18 MR. ROCHON: Objection.

15:29:23 19 I'm going to instruct him not to answer.  
15:29:26 20 That goes to diplomatic issues as to what  
15:29:30 21 the current diplomatic views are of our client. I  
15:29:34 22 will not object to any questions about what its current  
15:29:36 23 status is.

15:29:36 24 MR. SCHOEN: Is that because it involves the  
15:29:39 25 U.N., or in any circumstance? If I ask whether -- let

15:29:41 1 me finish -- whether -- whether it should be considered  
15:29:45 2 a state for any purpose in the future?

15:29:54 3 MR. ROCHON: If you ask me whether my client  
15:29:56 4 aspires to be a state, the answer would -- I wouldn't  
15:29:56 5 object. Because we all know that it aspires to be a  
15:30:00 6 state.

15:30:00 7 But if you start talking about the mechanisms  
15:30:02 8 by which it achieves, either through U.N., general  
15:30:06 9 observer status, Security Council, withdrawing or not  
15:30:10 10 withdrawing that, I object to those, and I'll instruct  
15:30:12 11 him not to answer.

15:30:13 12 It's currently the subject of intense debate  
15:30:14 13 with the Arab League and other folks. This witness  
15:30:17 14 is not here to discuss the diplomacy of our client.  
15:30:20 15 And I will instruct him not to answer those kinds of  
15:30:22 16 questions.

15:30:29 17 Q. BY MR. SCHOEN: As it exists today, is it  
15:30:38 18 the PA's position that it's qualified to be a state?

15:30:56 19 And by a "state," I mean a member state  
15:30:58 20 of the United Nations or a state for purposes of the  
15:31:07 21 International Criminal Court.

15:31:17 22 MR. McALEER: Objection as to form.

15:31:39 23 THE WITNESS: I believe there is a big  
15:31:40 24 distinction or we should differentiate between what  
15:31:45 25 we aspire for as Palestinians and our actuality.

15:31:53 1 Our ambition is to have a state like any other  
15:31:57 2 people in -- in the world. The only country or people  
15:32:04 3 that does not have a statehood in the 21st century  
15:32:10 4 is us. And our ambition for sure it is to achieve  
15:32:16 5 statehood. This is our legitimate right. This is  
15:32:23 6 something. But what you are asking about is something  
15:32:26 7 entirely different.

15:32:31 8 This is, I believe, a political issue more  
15:32:34 9 than being a legal or legalistic issue. And if the  
15:32:42 10 political talks were continuing proceeding, there would  
15:32:47 11 have been no need to head to the United Nations. And  
15:32:57 12 I also believe seeking the United Nations was a way  
15:33:03 13 in order to activate water which is stale, to move  
15:33:12 14 the -- the stale water.

15:33:14 15 CHECK INTERPRETER HAZOU: "Still waters."  
15:33:16 16 Yes.

15:33:22 17 Q. BY MR. SCHOEN: If a person lives in the  
15:33:24 18 area governed by the Palestinian Authority -- and I  
15:33:28 19 think I only have about two or three questions now --  
15:33:32 20 if a -- does that person have the right to say that  
15:33:53 21 he's not -- he or she is not subject to the authority  
15:34:10 22 of the Palestinian Authority?

15:34:20 23 MR. McALEER: Objection to form and beyond  
15:34:21 24 the scope.

15:34:21 25 THE WITNESS: I already answered this question

15:34:23 1 previously.

15:34:23 2 Q. BY MR. SCHOEN: I didn't hear the answer,  
15:34:25 3 then. I need another answer.

15:34:29 4 A. No problem. That's not my problem.

15:34:31 5 Q. Do you refuse to answer the question now?

15:34:38 6 A. You haven't heard -- you haven't heard me.

15:34:41 7 You haven't --

15:34:45 8 MR. SCHOEN: Let the record reflect, as  
15:34:46 9 we did before, the witness just pointed at me and  
15:34:48 10 raised his voice. That's my observation of what  
15:34:51 11 happened here. He picked up a pen and pointed the  
15:35:04 12 pen at me, demonstrating while he was talking.

15:35:09 13 Now that doesn't bother me. But  
15:35:12 14 Mr. McAleer put on the record before what he said  
15:35:15 15 was his observation that I had raised my voice and --  
15:35:20 16 and did something with my finger into the table.

15:35:35 17 MR. McALEER: Well, the good thing is that  
15:35:36 18 we have a video of Mr. Amawi, which will fully confirm  
15:35:43 19 how patient Mr. Amawi -- Amawi has been during this  
15:35:47 20 entire exercise and his -- his commendable efforts to  
15:35:53 21 respond to your questions. So I suggest that you get  
15:35:57 22 through with the remaining question or questions that  
15:36:02 23 you have.

15:36:05 24 MR. SCHOEN: I think I have a few more now.

15:36:09 25 THE WITNESS: I answer again -- and I

15:36:14 1 apologize if I spoke with a loud pitch. My purpose  
15:36:18 2 is not to minimize the importance of anybody.

15:36:26 3 But I have said, first and foremost, that  
15:36:29 4 I'm here as an attorney and I am proud of that. And  
15:36:38 5 I don't like people to ignore me. I assume that, when  
15:36:40 6 I ask a question for a witness that I am listening to,  
15:36:47 7 I should focus on getting the answer to the question  
15:36:52 8 rather than him talking to his colleague.

15:37:00 9 I am sorry to inform my colleague, the  
15:37:03 10 attorney, without exaggeration, that more than  
15:37:13 11 40 percent of the answers that I was giving to him  
15:37:17 12 he did not listen to, because he used to ask me a  
15:37:24 13 question and, at the same time, start whispering  
15:37:28 14 with his colleague.

15:37:33 15 Although I felt a personal injury in this  
15:37:36 16 format, I said nothing. But I do not like the idea  
15:37:43 17 that you have not heard me. That's not my problem,  
15:37:46 18 because you were talking to your colleague. This is  
15:37:51 19 why I'm sorry, I don't feel in a position to answer  
15:37:54 20 that question.

15:37:55 21 Q. BY MR. SCHOEN: Let me be clear. When I  
15:37:57 22 said I didn't hear that answer, I have heard every  
15:38:06 23 single word that you have said. I have listened or  
15:38:12 24 spoken to my colleague, who is sitting next to me,  
15:38:15 25 only when the answer was being given in Arabic that

15:38:25 1 I couldn't understand.

15:38:30 2 When the translation to English began, I

15:38:36 3 have listened to every word. And, in fact, I have

15:38:43 4 stopped -- I've stopped my colleague from speaking

15:38:49 5 to me in order to hear the answer in English, both

15:38:56 6 to hear the answer and out of respect for the witness.

15:39:10 7 A. (In English.) Thank you.

15:39:22 8 (Translated.) Thank you.

15:39:23 9 Q. Just give me a moment to look over my notes.

15:39:41 10 THE VIDEOGRAPHER: Can we take a break to

15:39:42 11 change the tape?

15:39:43 12 MR. SCHOEN: Yeah. I mean, I think it --

15:39:43 13 MR. ROCHON: Let's take a break.

15:39:43 14 MR. SCHOEN: Just go over my notes.

15:39:43 15 (Simultaneous colloquy.)

15:39:43 16 MR. SCHOEN: Okay. I think I would say I have

15:39:43 17 no more questions.

15:39:43 18 MR. ROCHON: Change the tape.

15:39:43 19 MR. SCHOEN: Change the tape.

15:39:43 20 MR. ROCHON: Off the record.

15:39:53 21 THE VIDEOGRAPHER: Going off the -- the record

15:39:54 22 at 3:39.

15:39:56 23 (Recess from 3:39 p.m. to 3:42 p.m.)

15:42:40 24 THE VIDEOGRAPHER: Back on record at 3:42.

15:42:53 25 Q. BY MR. SCHOEN: Can you please tell me, sir,

15:42:59 1 all of the facts that you believe, as a representative  
15:43:09 2 of the PA, that support the claim that the PA is an  
15:43:26 3 unincorporated association, as that term has been  
15:43:36 4 used by the PA in this case?

15:43:53 5 A. I don't know the term that has been used.

15:43:55 6 I'm not the lawyer involved in this case.

15:44:06 7 If the term "unincorporated association" --  
15:44:09 8 does it mean what I mean? If it's yes, it's possible.  
15:44:16 9 The term "unincorporated association," maybe there are  
15:44:24 10 terms that are used in the American terminology that  
15:44:29 11 I'm not familiar with. And, unfortunately, my English  
15:44:36 12 is quite poor. My command of English is quite poor.  
15:44:40 13 I wish I could be in a better position to understand  
15:44:44 14 this term. That's it.

15:44:51 15 Q. Whether it's because of a lack of  
15:44:53 16 understanding the term or otherwise, as you sit here  
15:44:56 17 today, can you tell us all of the facts that the PA  
15:45:12 18 believes supports the claim that the PA has entered --

15:45:21 19 (Pending question partially translated.)

15:45:21 20 Q. BY MR. SCHOEN: (Not translated.) -- that  
15:45:21 21 the PA -- that supports the claim that the PA has  
15:45:25 22 made in this lawsuit --

15:45:28 23 OFFICIAL INTERPRETER BEN-NAIM: Sorry.  
15:45:29 24 I don't get you.

15:45:31 25 Q. BY MR. SCHOEN: As you sit here today,

15:45:32 1 as a representative of the PA, can you tell me the  
15:45:37 2 facts that you believe, as a representative of the PA,  
15:45:49 3 support the claim made by the PA in this lawsuit that  
15:46:00 4 we're a, as the PA has used that term, "unincorporated  
15:46:15 5 association"?

15:46:15 6 (Pending question partially translated.)

15:46:15 7 MR. SCHOEN: "Association."

15:46:15 8 (Remainder of pending question translated.)

15:46:25 9 MR. McALEER: Objection.

15:46:26 10 You're talking, Counsel, about something other  
15:46:29 11 than what he's been talking about for the last several  
15:46:32 12 hours?

15:46:33 13 MR. SCHOEN: I'm asking him now, at one time,  
15:46:34 14 to -- in one time, to list the facts that he believes  
15:46:39 15 support the claim that the PA is an unincorporated  
15:46:42 16 association, as that term is used by the PA in this  
15:46:45 17 lawsuit.

15:46:46 18 OFFICIAL INTERPRETER BEN-NAIM: Can I rephrase  
15:46:48 19 it for him in the translation? Because I guess --

15:46:53 20 MR. SCHOEN: Sure. Sure.

15:46:53 21 OFFICIAL INTERPRETER BEN-NAIM: -- things  
15:46:53 22 didn't get --

15:46:53 23 MR. SCHOEN: Should I say it again for you?

15:46:55 24 OFFICIAL INTERPRETER BEN-NAIM: Yep.

15:46:55 25 MR. SCHOEN: Okay.

15:46:55 1 OFFICIAL INTERPRETER BEN-NAIM: Please.

15:46:57 2 MR. SCHOEN: I'm asking him now whether he

15:47:00 3 can answer me --

15:47:03 4 OFFICIAL INTERPRETER BEN-NAIM: With the

15:47:04 5 agreement of the -- the other side, can you please

15:47:09 6 start from -- from the end? "The Palestinian Authority

15:47:11 7 consists" --

15:47:16 8 Q. BY MR. SCHOEN: The Palestinian Authority,

15:47:16 9 in this case, has made the claim that it is an un --

15:47:23 10 unincorporated association.

15:47:35 11 OFFICIAL INTERPRETER BEN-NAIM: What was

15:47:36 12 translated by the interpreters in this courtroom --

15:47:38 13 in this room as --

15:47:43 14 (Comments in Arabic by Official Interpreter

15:47:43 15 Ben-Naim and Official Interpreter Aghazarian.)

15:47:46 16 Q. BY MR. SCHOEN: And I'm also using the term

15:47:48 17 in English "unincorporated association."

15:48:03 18 Can you tell me now what all of the facts are

15:48:12 19 that the PA believes supports that claim -- supports

15:48:29 20 that claim that the PA is an unincorporated association?

15:48:34 21 (Pending question partially translated.)

15:48:34 22 MR. SCHOEN: "Unincorporated."

15:48:57 23 (Remainder of pending question translated.)

15:49:02 24 MR. McALEER: I believe there may be a

15:49:04 25 translation issue.

15:49:05 1 OFFICIAL INTERPRETER BEN-NAIM: Okay.

15:49:06 2 CHECK INTERPRETER HAZOU: When we say

15:49:07 3 "unincorporated association," it has been translated

15:49:12 4 as being --

15:49:14 5 (Comment in Arabic by Check Interpreter

15:49:14 6 Hazou.)

15:49:16 7 CHECK INTERPRETER HAZOU: -- which to me does

15:49:17 8 not make any sense to be honest.

15:49:19 9 MR. SCHOEN: Okay.

15:49:21 10 CHECK INTERPRETER HAZOU: It may -- they may

15:49:22 11 have -- what I'm asking is as simple as this: Can you

15:49:27 12 please elaborate on this expression --

15:49:30 13 (Comment in Arabic by Check Interpreter

15:49:30 14 Hazou.)

15:49:31 15 CHECK INTERPRETER HAZOU: -- so that --

15:49:32 16 OFFICIAL INTERPRETER AGHAZARIAN: Because

15:49:32 17 a corporation -- I mean, it's the first time I hear

15:49:35 18 this term.

15:49:37 19 MR. SCHOEN: Let me respond, please. Let

15:49:37 20 me respond, as the person asking the question. There

15:49:40 21 should not be, in my view, a translation problem that

15:49:43 22 decides whether this question can be answered.

15:49:47 23 It's the PA that has used the term

15:49:49 24 "unincorporated association" in its filings. The

15:49:59 25 section -- the section of the Rule 30(b) (6) note --

15:50:04 1 motion -- notice that refers to this specifically  
15:50:08 2 lists out a witness to be designated who can testify  
15:50:14 3 as to exactly what No. 12 says:

15:50:17 4                 "All facts relating to the claim by the  
15:50:19 5 PA that it is an unincorporated association, within  
15:50:24 6 the meaning of that term as used on page 36 of the  
15:50:27 7 Memorandum in Support of Defendants' Motion to Vacate  
15:50:32 8 Clerk's Entry of Default, filed by the PA in this  
15:50:37 9 action."

15:50:37 10                 And then there's a reference in parentheses  
15:50:41 11 to Docket Entry No. 77.

15:50:43 12                 It is our position, so that it's clear, that  
15:50:45 13 if there's a problem with translation or understanding  
15:50:53 14 the term, then the obligation on the defendants was  
15:51:07 15 either to designate a witness who understood that  
15:51:11 16 term to the extent that term can be understood and  
15:51:19 17 is something other than a legal concept.

15:51:23 18                 (Colloquy partially translated.)

15:51:29 19                 OFFICIAL INTERPRETER BEN-NAIM: "To the"?

15:51:31 20                 MR. SCHOEN: To the extent that term can be  
15:51:33 21 understood -- I don't remember exactly what I said --  
15:51:36 22 or as something that's a legal concept. But the point  
15:51:46 23 is the PA selected that term.

15:51:54 24                 OFFICIAL INTERPRETER BEN-NAIM: "Selected"?

15:51:59 25                 MR. SCHOEN: "Selected."

15:52:00 1 And we asked that a witness be designated --  
15:52:07 2 OFFICIAL INTERPRETER BEN-NAIM: "Be"?  
15:52:09 3 MR. SCHOEN: -- that a witness be designated  
15:52:11 4 who could explain and give us all of the facts. That's  
15:52:22 5 all.  
15:52:23 6 MR. McALEER: All right. Well, we're not  
15:52:24 7 going to get into a debate on the record in this  
15:52:28 8 deposition.  
15:52:28 9 I object to the form of your question,  
15:52:30 10 particularly to the extent that it ignores the last  
15:52:35 11 several hours of testimony in which the witness had  
15:52:40 12 stated any number of different facts. So --  
15:52:44 13 MR. SCHOEN: All right. Let me -- I'll ask  
15:52:45 14 him another question, then.  
15:52:47 15 Q. BY MR. SCHOEN: Do you believe that the  
15:52:52 16 answers you've given to these questions I've asked  
15:52:58 17 you about an unincorporated association state facts --  
15:53:07 18 are facts which support the claim that the PA has made  
15:53:29 19 in this case that it is an unincorporated association?  
15:53:42 20 OFFICIAL INTERPRETER BEN-NAIM: I said also:  
15:53:43 21 What was translated here with objection -- with -- with  
15:53:52 22 some observations.  
15:53:55 23 (Comment in Arabic by Official Interpreter  
15:53:55 24 Ben-Naim.)  
15:53:58 25 THE WITNESS: (In English.) Okay.

15:54:02 1 (Translated.) First of all, I am not a  
 15:54:06 2 specialist on American law. And there is no precedent  
 15:54:15 3 that I have been exposed to the American law.

15:54:23 4 When the PA -- cases were raised against it,  
 15:54:28 5 it assigned relevant people with expertise about the  
 15:54:33 6 American law system. The job of the people in these  
 15:54:41 7 American law firms, because they work within the  
 15:54:48 8 American legal system, is to respond in -- in -- in a  
 15:54:56 9 way that fits within the American legal system. I say  
 15:55:00 10 that I'm not an authority and they have the packaging  
 15:55:04 11 to follow up the matter.

15:55:17 12 If -- if I wanted to resort to -- there was  
 15:55:22 13 no need to go to a specialized American law firm in  
 15:55:27 14 order to deal up with the issue. I responded to the  
 15:55:33 15 questions that were addressed to me. And this term  
 15:55:41 16 that has been subject for controversial discussion  
 15:55:51 17 somehow, so they see, according to the American legal  
 15:55:53 18 framework, this is the term that -- that will be  
 15:55:56 19 endorsed.

15:56:01 20 If the case was being pursued in a different  
 15:56:04 21 country, most probably they would use a different term.  
 15:56:14 22 If -- if you use this term of --

15:56:17 23 (Comment in Arabic by the witness.)

15:56:18 24 THE WITNESS: -- which is the Arabic, maybe  
 15:56:20 25 nobody will understand around here. And there is no

15:56:25 1 court system that will be able to understand.

15:56:32 2 But very clearly that this term has its place  
15:56:36 3 within the American legal system and it's there. So I  
15:56:47 4 believe that I have answered all the questions related  
15:56:50 5 to our actuality regarding the status of the PA. The  
15:57:03 6 final drafting and how to list these names, what comes  
15:57:08 7 first, what comes next, this is -- the final packaging,  
15:57:11 8 this is the work of the law firm in the United States.

15:57:15 9 MR. SCHOEN: Okay. No more questions.

15:57:17 10 MR. McALEER: Mr. Amawi, I know it's been  
15:57:19 11 a long day, but I have just a few questions for you.

15:57:23 12 THE WITNESS: (In English.) It's okay.

15:57:25 13  
15:57:25 14 EXAMINATION

15:57:29 15 BY MR. McALEER:

15:57:26 16 Q. Do you recall Mr. Schoen asking you whether,  
15:57:33 17 in preparation for testifying today regarding Topic  
15:57:45 18 No. 7 in the Notice of Deposition, Shaher Al-Rai and  
15:57:56 19 his imprisonment, Mr. Schoen asked you if you had  
15:58:04 20 contacted Shaher Al-Rai to determine when he was  
15:58:11 21 released from Palestinian prison following his 1994  
15:58:16 22 or '95 incarceration?

15:58:20 23 (Pending question partially translated.)

15:58:42 24 OFFICIAL INTERPRETER BEN-NAIM: "To"? To  
15:58:42 25 make sure about the time?

15:58:45 1 MR. McALEER: "His release from" --

15:58:51 2 OFFICIAL INTERPRETER BEN-NAIM: "From prison"?

15:58:52 3 MR. McALEER: "From Palestinian prison

15:58:55 4 following his incarceration in 1994 or '95."

15:58:57 5 (Remainder of pending question translated.)

15:59:01 6 THE WITNESS: Correct.

15:59:09 7 Q. BY MR. McALEER: Do you recall telling

15:59:12 8 Mr. Schoen, in response to that question, that in

15:59:23 9 preparation for your testimony today on that topic,

15:59:25 10 that you had not spoken with Mr. Shaher Al-Rai

15:59:41 11 regarding the date of his release from Palestinian

15:59:44 12 prison?

15:59:51 13 A. I have not talked to him.

15:59:54 14 Q. Did you ask anyone else to attempt to contact

16:00:00 15 Shaher Al-Rai to ask Shaher Al-Rai about his release

16:00:08 16 date?

16:00:08 17 (Pending question partially translated.)

16:00:09 18 OFFICIAL INTERPRETER BEN-NAIM: "Released

16:00:23 19 from"?

16:00:24 20 MR. McALEER: "The Palestinian prison."

16:00:27 21 (Remainder of pending question translated.)

16:00:30 22 THE WITNESS: I reiterate the way I stated

16:00:33 23 earlier. I was asked and declared that I did not talk

16:00:41 24 with Mr. Al-Rai, that this is not my job. And I said

16:00:53 25 that I have searched in my official capacity.

16:00:56 1           And I went to the proper address which, in  
16:01:02 2 this case, is the military prosecution. And I answered  
16:01:14 3 indirectly on one of the questions that were addressed  
16:01:18 4 to me when he said: Does the PA find it difficult to  
16:01:28 5 extract the information from Mr. Shaher Al-Rai?

16:01:33 6           And I said: Yes, there are impediments in  
16:01:40 7 this respect.

16:01:44 8           I have a colleague with whom -- who is -- who  
16:01:52 9 is the head of the center of our ministry in Kalkilya.  
16:01:59 10 His name is Nael Ghannam, and he's a friend of Shaher  
16:02:07 11 Al-Rai. I asked him, as the head of our center, branch  
16:02:16 12 there, without knowing that there is a depo. And I  
16:02:26 13 didn't inform why I am questioning about the matter.

16:02:35 14           I told him: Whenever you see Shaher and --  
16:02:38 15 ask him indirectly when was he released from the Jericho  
16:02:44 16 jail. Of course, this is not official. But I did this  
16:02:51 17 as a personal nature. In my representative capacity  
16:03:02 18 for the PA, I have no right to go around in this manner.

16:03:12 19           And the response from Shaher was -- and he  
16:03:15 20 has no idea that there is a depo. He cursed his friend,  
16:03:25 21 this clerk of ours, that: Merely hearing the word about  
16:03:33 22 my Jericho ordeal, I could kill anybody that shows up  
16:03:42 23 in front of me whenever this is mentioned. And this  
16:03:45 24 is an issue that I do not want to remember at all.

16:03:56 25           I did not reveal this before. I said that

16:03:59 1 there are impediments on the issue. Because this  
16:04:13 2 clearly was not done in a proper way. It's not my job.  
16:04:17 3 But I tried to do it in a roundabout way. That's the  
16:04:24 4 answer.

16:04:26 5 Q. BY MR. McALEER: Do you know what Mr. Shaher  
16:04:28 6 Al-Rai told your Kalkilya colleague the date on which  
16:04:32 7 Mr. Shaher Al-Rai was released from the Jericho prison?

16:04:36 8 MR. SCHOEN: Objection.

16:04:47 9 THE WITNESS: He absolutely rejected -- he  
16:04:50 10 refused to -- to delve into the topic whatsoever. I  
16:05:05 11 was trying to get the information because it was part  
16:05:07 12 of the requirement here.

16:05:18 13 And so, formally, my job was to correspond  
16:05:22 14 with the military prosecution, which I did. I cannot  
16:05:34 15 summon him: Come, there is a case I want to know.  
16:05:36 16 I cannot dictate on him to reveal the information.  
16:05:45 17 So this is why, since it's a personal matter, I did  
16:05:48 18 not go into detail on this particular subject.

16:05:52 19 MR. McALEER: Those are all the questions  
16:05:57 20 I have.

16:05:57 21  
16:05:57 22 FURTHER EXAMINATION  
16:05:58 23 BY MR. SCHOEN:

16:05:57 24 Q. Mr. Al-Rai -- sorry. Mr. -- sorry.  
16:06:05 25 Do you recall when I asked you those questions

16:06:10 1 and you told me that you felt Al-Rai wouldn't speak  
16:06:20 2 because he hated the Palestinian Authority or something  
16:06:26 3 like that?

16:06:28 4 A. I said this, of course, I -- repeatedly.

16:06:33 5 Q. Do you remember I asked you: How do you know  
16:06:36 6 that, or something like that, to that effect?

16:06:44 7 A. And I answered this went public. It was  
16:06:47 8 published in the paper. And in all the circles, he  
16:06:50 9 was openly cursing the PA. I remember vividly.

16:06:55 10 Q. Do you remember I asked you whether you spoke  
16:06:57 11 to anyone in Kalkilya or you went to Kalkilya to find  
16:07:01 12 out about it?

16:07:12 13 A. You asked me if you went and tried to bring  
16:07:15 14 this information. And I clearly stated that this is  
16:07:18 15 not my job. Once again, I'm very lucid and clear on  
16:07:26 16 what I said. And I still believe that this is not my  
16:07:33 17 job. And what I responded, I stick to.

16:07:40 18 I utilized something which is not kosher, if  
16:07:44 19 you like. It is like, you know, draw -- pull his neck  
16:07:51 20 and try to get the information. And I did not want  
16:07:55 21 to speak about this matter. Because it's as if I was  
16:08:06 22 trapping him. I did not inform him that there is a  
16:08:09 23 case brewing somewhere.

16:08:13 24 But when my -- my friend, colleague, he said,  
16:08:15 25 "Why do you want the date of release?" I said there was

16:08:22 1 an argument when was the date, and I want to know the  
16:08:28 2 exact date of the release. So -- so I myself, you know,  
16:08:39 3 went in a roundabout way to get the information. And  
16:08:42 4 if you went to the military prosecution, of course,  
16:08:46 5 no one is in a position.

16:08:53 6 But I clearly stated that there would be  
16:08:59 7 impediments and -- and obstacles. And this was the  
16:09:03 8 gist of it. And the problem whether he will cooperate  
16:09:14 9 or not, and I responded to you.

16:09:16 10 Q. Do you remember that I specifically asked  
16:09:17 11 you about your -- about your relationship with Al-Rai  
16:09:25 12 that wasn't in your official capacity?

16:09:26 13 (Pending question partially translated.)

16:09:27 14 OFFICIAL INTERPRETER BEN-NAIM: "That wasn't"?

16:09:34 15 MR. SCHOEN: "That was not in your official  
16:09:36 16 capacity."

16:09:37 17 (Remainder of pending question translated.)

16:09:37 18 Q. BY MR. SCHOEN: I asked you if you remembered  
16:09:38 19 when you were his lawyer and that you had a relationship  
16:09:47 20 when you were not a member of the -- not a member --  
16:09:50 21 employed by the PA.

16:10:00 22 A. I answered you. And I said I was his attorney  
16:10:03 23 and -- and there was no personal relationship, just  
16:10:09 24 between a client. If there is a reason, I would have  
16:10:13 25 personally called him to get the information.

16:10:17 1 Q. But you understood that I was asking you how  
 16:10:23 2 you know he would be angry with the PA or wouldn't speak  
 16:10:30 3 to the PA?

16:10:39 4 A. I answered you also in a legal way, which  
 16:10:42 5 is familiar to everybody. I considered that. So I  
 16:11:05 6 do not want to speak about this because there is a  
 16:11:07 7 specificity in the case. It's not a personal kind  
 16:11:11 8 of relationship between me and him.

16:11:16 9 His rejection -- I have clearly responded to  
 16:11:20 10 your query. The man refuses to delve into the issue.  
 16:11:29 11 He feels it's a black spot. Let's not make an issue  
 16:11:35 12 out of it.

16:11:36 13 Q. That's what your friend told you?

16:11:39 14 A. Yes.

16:11:39 15 Q. You have no other way of knowing that?

16:11:50 16 A. He had been opening fire in his words,  
 16:11:53 17 verbally lashing against the -- against the -- bashing  
 16:11:58 18 against the -- the Authority. And because I know this  
 16:12:03 19 issue and I know that he's allergic particularly to  
 16:12:09 20 this issue, I sent somebody to sneak and try to get  
 16:12:18 21 the information. And even in an indirect, sneaky way,  
 16:12:22 22 he was intimidated, and there was an outburst, you know,  
 16:12:32 23 an anger.

16:12:33 24 Q. Were you there for the conversation between --  
 16:12:36 25 between your friend -- between your friend and Al-Rai?

16:12:44 1 A. Of course I wasn't there.

16:12:45 2 Q. You were not there?

16:12:47 3 OFFICIAL INTERPRETER AGHAZARIAN: "No."

16:12:53 4 THE WITNESS: So why -- I mean, if I was

16:12:55 5 present, why should I ask my friend in order to sneak

16:13:00 6 to get the information?

16:13:01 7 You know, he said: I mean, I asked it

16:13:15 8 innocently. And, you know, the -- the person that

16:13:16 9 asked the question, he said: When I raised this issue,

16:13:20 10 he was furious, and he wanted to -- to stab me.

16:13:24 11 Q. BY MR. SCHOEN: So the truth of this report

16:13:26 12 that you've given us -- that you gave Mr. McAleer, in

16:13:36 13 response to his question, but didn't testify about when

16:13:44 14 I asked you my questions, the truth of the conversation

16:13:56 15 between your friend and Al-Rai is based entirely on

16:14:05 16 what you say your friend told you?

16:14:19 17 A. No. That's not accurate. I responded to

16:14:24 18 you the same answer that I received from my friend.

16:14:28 19 But -- but he entered in -- in further detail, and so

16:14:39 20 I elaborated further. And the principle, it has been

16:14:47 21 the same. This is just a detail. And I consider that

16:14:54 22 it has no weight to move the thing forward or backwards.

16:15:01 23 The principle of his rejecting bringing this issue forth

16:15:06 24 is the bottom line.

16:15:09 25 Q. So when I asked you whether you asked Al-Rai

16:15:13 1 when he was released from prison --

16:15:21 2 A. I did not ask Al-Rai.

16:15:23 3 Q. Let me -- let me finish my question.

16:15:27 4 When I asked you whether you asked Al-Rai

16:15:35 5 when he -- when he was released and you answered that

16:15:39 6 you had not --

16:15:44 7 A. Correct.

16:15:44 8 Q. -- and if I asked you whether you made any

16:15:48 9 attempt to find out from Al-Rai --

16:15:50 10 (Pending question partially translated.)

16:15:52 11 OFFICIAL INTERPRETER BEN-NAIM: To what?

16:15:58 12 Q. BY MR. SCHOEN: -- to -- made any attempt

16:15:59 13 to find out from Al-Rai when he was released -- and

16:16:06 14 the transcript will tell us whether I asked you that

16:16:12 15 or not -- if your answer to that was "no," that would

16:16:20 16 not have been a truthful answer or a complete answer;

16:16:24 17 correct?

16:16:37 18 A. What you say is not correct, for a given

16:16:43 19 reason. Go back to the questions that you have

16:16:48 20 addressed to me. You -- you kept reiterating "in

16:16:53 21 your capacity as somebody coming in to represent the

16:16:57 22 PA."

16:17:03 23 And -- and -- and I am not compelled, as a PA,

16:17:09 24 to talk to you. I did not speak all of this in -- in

16:17:18 25 my capacity as a PA representative. All your focus

16:17:28 1 is that you, in your capacity as PA, have shortcomings  
16:17:33 2 and failed to respond to your responsibilities. And  
16:17:40 3 I will answer in the same size that you are putting  
16:17:45 4 your questions to me.

16:17:46 5 Q. Did you take any other steps in your capacity  
16:17:49 6 other than as a PA representative to investigate or  
16:18:01 7 prepare yourself to testify today?

16:18:17 8 A. I looked into the Accords -- into the Oslo  
16:18:22 9 Accords, not in an official capacity. I asked the  
16:18:26 10 colleagues regarding certain legal aspects in a regular  
16:18:29 11 legal debate discussion, without anybody, as lawyers,  
16:18:35 12 who know what -- what we are talking -- talking about.

16:18:40 13 Q. What's the name of your friend in Kalkilya  
16:18:43 14 who spoke to Al-Rai?

16:18:45 15 A. Nael Ghannam.

16:18:50 16 MR. SCHOEN: Thank you. No more questions.

16:18:52 17 MR. McALEER: No more questions.

16:18:53 18 THE VIDEOGRAPHER: That concludes the video  
16:18:55 19 deposition at 4:18.

20 (The deposition concluded at 4:18 p.m.)

21

22

23

24

25

1 CERTIFICATE OF WITNESS/DEPONENT

2  
3 I, JAWAD AMAWI, witness herein, do  
4 hereby certify and declare the within and foregoing  
5 transcription to be my examination under oath in said  
6 action taken on September 6, 2012, with the exception  
7 of the changes listed on the errata sheet, if any;

8 That I have read, corrected, and do hereby  
9 affix my signature under penalty of perjury to said  
10 examination under oath.

11  
12  
13  
14  
15 JAWAD AMAWI, Witness

Date

1 CERTIFICATE OF REPORTER  
2

3 I, BRENDA MATZOV, CA CSR No. 9243, do hereby  
4 certify:

5 That, prior to being examined, the witness  
6 named in the foregoing deposition was duly affirmed by  
7 me to testify the truth, the whole truth, and nothing  
8 but the truth;

9 That the foregoing deposition was taken before  
10 me at the time and place herein set forth, at which time  
11 the aforesaid proceedings were stenographically recorded  
12 by me and thereafter transcribed by me;

13 That the foregoing transcript, as typed, is a  
14 true record of the said proceedings;

15 And I further certify that I am not interested  
16 in the action.

17  
18 Dated this 26th day of November, 2012.  
19

20 \_\_\_\_\_  
21 BRENDA MATZOV, CA CSR No. 9243  
22  
23  
24  
25

1 ERRATA SHEET

2 \*\*\* SHABTAI SCOTT SHATSKY, et al., v.

3 THE SYRIAN ARAB REPUBLIC, et al. \*\*\*

4

5 Page \_\_\_\_ Line \_\_\_\_ Change \_\_\_\_\_

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20 Reason \_\_\_\_\_

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22 Reason \_\_\_\_\_

23

24 JAWAD AMAWI, Witness \_\_\_\_\_ Date \_\_\_\_\_

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